EDUCATION DEPARTMENT[281]

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TITLE I
GENERAL INFORMATION—
DEPARTMENT OPERATIONS

CHAPTER 1
ORGANIZATION AND OPERATION

[Prior to 9/7/88, see Public Instruction Department[670] Ch 49]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/31/29

281—1.1(17A,256) State board of education. The state board of education, authorized by Iowa Code chapter 256, is the governing and policy-forming body for the department of education.

1.1(1) *Membership.* The state board's membership is governed by Iowa Code sections 256.3 and 256.4.

1.1(2) *Meetings.* The board's meetings are governed by Iowa Code section 256.6. The majority of the board's meetings are held in the State Board Room, Grimes State Office Building, 400 East 14th Street, Des Moines, Iowa 50319. By notice of the regularly published meeting agenda, the board may hold meetings in other areas of the state. The board may hold special meetings as provided in Iowa Code section 256.6.

1.1(3) *Compensation.* All voting members will receive compensation and reimbursement as provided in Iowa Code section 256.5. A student member will receive compensation pursuant to Iowa Code section 256.5A(6). If a student member's parent or guardian provides supervision pursuant to subrule 1.2(4), the parent or guardian will receive necessary expenses but not a per diem.

1.1(4) *Other boards.* The Iowa board of educational examiners and the Iowa college student aid commission have rulemaking authority, the rules of which are codified under agency numbers 282 and 283, respectively.

[**ARC 7418C**, IAB 12/27/23, effective 1/31/24]

281—1.2(17A,256) Student member of the state board of education. The governor will appoint a public high school student to serve as a nonvoting member of the state board of education pursuant to Iowa Code section 256.5A.

1.2(1) *Term.* The nonvoting student member will serve a term from May 1 to April 30. The student member may serve a second year as the nonvoting student member without having to reapply for the position if the student has another year of high school eligibility remaining before graduation. A vacancy in the membership of the nonvoting student member will not be filled until the expiration of the term.

1.2(2) *Qualifications.* At the time of making application, a qualified nonvoting student member is to meet all of the following criteria:

a. The student is a full-time, regularly enrolled tenth or eleventh grade student in an Iowa school district.

b. The student has been regularly enrolled as a full-time student in the district of present enrollment for at least two consecutive semesters or the equivalent thereof.

c. The student has a minimum cumulative grade point average in high school of 3.0 on a 4.0 scale (3.75 on a 5.0 scale).

d. The student demonstrates participation in extracurricular and community activities, as well as an interest in serving on the state board.

e. The student has the consent of the student's parent or guardian, as well as the approval of the student's district.

1.2(3) *Application process.* The application process for the nonvoting student member is as follows:

a. The department will, on behalf of the state board, prepare and disseminate application forms to all school districts in Iowa. In addition to the application itself, the student will submit all of the following:

(1) A consent form signed by the student's parent or guardian.

(2) An approval of the application signed by the superintendent of the student's district of enrollment or the superintendent's designee.

(3) A letter of recommendation from a high school teacher from whom the student received instruction.

(4) A letter of recommendation from a person in the community familiar with the student's community activities.

b. The number of applicants in a year from any one district is limited as follows:

(1) If district enrollment for grades 10 through 12 is less than 400 students, there may be no more than one applicant from the district.

(2) If district enrollment for grades 10 through 12 is between 400 and 1,199 students, there may be no more than two applicants from the district.

(3) If district enrollment for grades 10 through 12 is 1,200 students or more, there may be no more than three applicants from the district.

c. All applications are to be submitted on or before February 1 of the year in which the term is to begin. Applications may be hand-delivered or postmarked on or before February 1 to the Iowa department of education.

d. All applications will be initially screened by a committee to be appointed by the director of the department. The initial screening committee will select not more than 20 semifinalists. If fewer than a total of 20 applications are received, the initial screening process may be omitted at the discretion of the director of the department.

e. The applications of the semifinalists will be reviewed by a committee appointed by the president of the state board. The committee will submit a list of two to five finalists to the governor, who will appoint the student member from the list submitted.

1.2(4) *Participation of student member in official board activities.*

a. Upon appointment to the board, the student member is to, at a minimum, fulfill the following qualifications to remain eligible to serve:

(1) Maintain enrollment as a full-time student in an Iowa public school district (if the student moves or transfers from the district of application, the student will obtain the approval of the superintendent or the superintendent's designee in the student's new district of enrollment).

(2) Maintain a minimum cumulative grade point average in high school of 3.0 on a 4.0 scale or 3.75 on a 5.0 scale.

(3) Attend regularly scheduled board meetings as required of voting board members. As a nonvoting member, the student will not participate in any closed session of the board.

b. The student member's absences from school to participate in official state board activities will be excused absences. The student member's participation in board activities outside the regularly scheduled meetings of the state board will be approved by the president of the board and the student's superintendent or the superintendent's designee.

c. If the student member is a minor, the student's parent or guardian will accompany the student while the student is participating in official state board activities at a location other than the student's resident community, unless the parent or guardian submits to the state board a signed release indicating that the parent or guardian has determined that such supervision is unnecessary.

d. The nonvoting student member is not considered for purposes of constituting the board's necessary quorum.

[**ARC 7418C**, IAB 12/27/23, effective 1/31/24]

281—1.3(17A,256) Director of the department of education. The director is appointed pursuant to Iowa Code section 256.8 and performs such duties as assigned by the Iowa Code or the Iowa Administrative Code, including Iowa Code section 256.9.

[**ARC 7418C**, IAB 12/27/23, effective 1/31/24]

281—1.4(17A,256) Department of education. The department of education is established by Iowa Code section 256.1 to perform the functions and duties set forth in that section, in other Iowa Code provisions, and in the Iowa Administrative Code. The department is organized into such divisions as established by statute, including the innovation division established by 2023 Iowa Acts, Senate File 514, or the director.

The mailing address for the state board of education, the director, and all divisions of the department is Grimes State Office Building, 400 East 14th Street, Des Moines, Iowa 50319-0146.
[**ARC 7418C**, IAB 12/27/23, effective 1/31/24]

These rules are intended to implement Iowa Code section 17A.3.

[Filed 2/28/77, Notice 12/15/76—published 3/23/77, effective 4/27/77]
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[Filed emergency 12/14/90—published 1/9/91, effective 12/14/90]
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[Filed emergency 11/21/02—published 12/11/02, effective 11/21/02]
[Filed 1/17/03, Notice 12/11/02—published 2/5/03, effective 3/12/03]
[Filed ARC 1330C (Notice ARC 1244C, IAB 12/11/13), IAB 2/19/14, effective 3/26/14]
[Filed ARC 5645C (Notice ARC 5479C, IAB 2/24/21), IAB 6/2/21, effective 7/7/21]
[Filed ARC 7418C (Notice ARC 7082C, IAB 10/4/23), IAB 12/27/23, effective 1/31/24]

CHAPTER 2
AGENCY PROCEDURE FOR RULEMAKING AND PETITIONS FOR RULEMAKING

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/31/29

281—2.1(17A) Incorporation by reference. The Iowa department of education (department) and the Iowa state board of education incorporate by this reference all such matters in Iowa Code chapter 17A that deal with rulemaking or petitions for rulemaking.
[**ARC 7425C**, IAB 12/27/23, effective 1/31/24]

281—2.2(17A) Contact information.

2.2(1) *General.* Petitions for rulemaking and inquiries about department rules and the rulemaking process may be directed to Legal Consultant, Iowa Department of Education, Grimes State Office Building, 400 East 14th Street, Des Moines, Iowa 50319-0146.

2.2(2) *Comments on proposed rules.* Any public comment on a Notice of Intended Action or similar document may be directed to Legal Consultant, Iowa Department of Education, Grimes State Office Building, 400 East 14th Street, Des Moines, Iowa 50319-0146, or as directed in the Notice of Intended Action or similar document.

2.2(3) *Petitions for rulemaking.* A petition for rulemaking that substantially conforms to the following form will be considered by the department:

DEPARTMENT OF EDUCATION

Petition by (Name of Petitioner) for the Adoption/Amendment/Repeal of (Cite rule involved).	}	PETITION FOR RULEMAKING

[**ARC 7425C**, IAB 12/27/23, effective 1/31/24]

281—2.3(17A) Electronic submissions. The department encourages electronic submissions of documents under this chapter, including documents bearing electronic signatures. More information is available in the administrative rules content on the department's website (educateiowa.gov).
[**ARC 7425C**, IAB 12/27/23, effective 1/31/24]

These rules are intended to implement Iowa Code section 256.7(3) and chapter 17A.

[Filed 8/19/88, Notice 6/29/88—published 9/7/88, effective 10/12/88]
[Filed 3/11/94, Notice 12/8/93—published 3/30/94, effective 5/4/94]
[Filed 4/13/99, Notice 3/10/99—published 5/5/99, effective 6/9/99]
[Filed 4/20/05, Notice 2/16/05—published 5/11/05, effective 6/15/05]
[Filed ARC 5646C (Notice ARC 5466C, IAB 2/24/21), IAB 6/2/21, effective 7/7/21]
[Filed ARC 7425C (Notice ARC 7083C, IAB 10/4/23), IAB 12/27/23, effective 1/31/24]

CHAPTER 3
DECLARATORY ORDERS

[Prior to 9/7/88, see Public Instruction Department[670] Ch 53]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/31/29

The Iowa department of education adopts, with the exceptions and amendments noted in rule 281—3.13(17A), the Uniform Rules on Agency Procedure relating to declaratory orders, which are published at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf on the general assembly's website.

[**ARC 7432C**, IAB 12/27/23, effective 1/31/24]

281—3.13(17A) Additional information concerning declaratory orders. For purposes of the Uniform Rules on Agency Procedure relating to declaratory orders, the following amendments and exceptions apply:

1. In lieu of "(designate agency)" insert "Iowa department of education".
2. In lieu of "(designate office)" insert "Grimes State Office Building, Second Floor, 400 East 14th Street, Des Moines, Iowa 50319-0146".
3. In lieu of "_____days (15 or less)" insert "15 days".
4. In lieu of "_____ days" insert "15 days".
5. In lieu of "(designate official by full title and address)" insert "General Counsel, Iowa Department of Education, Grimes State Office Building, Second Floor, 400 East 14th Street, Des Moines, Iowa 50319-0146".
6. In lieu of "(specify office and address)" insert "General Counsel, Iowa Department of Education, Grimes State Office Building, Second Floor, 400 East 14th Street, Des Moines, Iowa 50319-0146".
7. Method of service, time of filing, proof of mailing, the date of issuance of an order, or a refusal to issue an order are governed by 281—Chapter 6.

[**ARC 7432C**, IAB 12/27/23, effective 1/31/24]

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

[Filed 7/1/75]
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[Filed 4/13/99, Notice 3/10/99—published 5/5/99, effective 6/9/99]
[Filed ARC 7432C (Notice ARC 7084C, IAB 10/4/23), IAB 12/27/23, effective 1/31/24]

CHAPTER 4
WAIVERS FROM ADMINISTRATIVE RULES

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/31/29

281—4.1(17A) Definitions. For purposes of this chapter:

"Board" means the state board of education.

"Department" means the department of education.

"Director" means the director of the department of education.

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

"Waiver" means the same as defined in Iowa Code section 17A.9A(5).

[**ARC 7420C**, IAB 12/27/23, effective 1/31/24]

281—4.2(17A) General. The director may grant a waiver of any administrative rule, if the waiver is consistent with Iowa Code section 17A.9A.

[**ARC 7420C**, IAB 12/27/23, effective 1/31/24]

281—4.3(17A) Criteria for waiver. In response to a petition filed pursuant to this chapter, the director may in the director's sole discretion issue an order waiving in whole or in part the obligations of a rule if the director finds, based on clear and convincing evidence, all of the factors listed in Iowa Code section 17A.9A(2) and that any waiver from the obligations 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 7420C**, IAB 12/27/23, effective 1/31/24]

281—4.4(17A) Filing of petition. All petitions for waiver are submitted in writing to the Director, Department of Education, Grimes State Office Building, 400 East 14th Street, Des Moines, Iowa 50319-0146. If the petition relates to a pending contested case, the petition is filed in the contested case proceeding, using the caption of the contested case.

[**ARC 7420C**, IAB 12/27/23, effective 1/31/24]

281—4.5(17A) Content of petition. A petition for waiver includes 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 requested, including the precise scope and duration.
4. The relevant facts that the petitioner believes would justify a waiver under the criteria described in Iowa Code section 17A.9A(2). This statement includes 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 department 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 department'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 department with information relevant to the waiver.

[**ARC 7420C**, IAB 12/27/23, effective 1/31/24]

281—4.6(17A) Additional information. Prior to issuing an order granting or denying a waiver, the department 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 department may on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the department.

[**ARC 7420C**, IAB 12/27/23, effective 1/31/24]

281—4.7(17A) Notice. The department will acknowledge receiving the petition and 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 necessary by any provision of law. In addition, the department may give notice to other persons. To accomplish this notice provision, the department may obligate the petitioner to serve the notice on all persons to whom notice is necessary by any provision of law and provide a written statement to the department attesting that notice has been provided.

[**ARC 7420C**, IAB 12/27/23, effective 1/31/24]

281—4.8(17A) Hearing procedures. The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings 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.

[**ARC 7420C**, IAB 12/27/23, effective 1/31/24]

281—4.9(17A) Ruling. An order granting or denying a waiver will be in writing and will 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 any waiver issued.

4.9(1) *General.* The final decision on whether the circumstances justify the granting of a waiver is in the sole discretion of the director, based on the unique, individual circumstances set out in the petition.

4.9(2) *Compliance with Iowa Code standards.* The department applies the standards and burdens in Iowa Code section 17A.9A(3).

4.9(3) *Administrative deadlines.* When the rule from which a waiver is sought establishes administrative deadlines, the director will balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

4.9(4) *Time for ruling.* The director will grant or deny a petition for a waiver as soon as practicable but, in any event, 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 director will grant or deny the petition no later than the time at which the final decision in that contested case is issued. Failure of the director to grant or deny a petition within the time period is deemed a denial of that petition by the director. However, the director remains responsible for issuing an order denying a waiver.

4.9(5) *Service of order.* Within seven days of its issuance, any order issued under this chapter is 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 7420C**, IAB 12/27/23, effective 1/31/24]

281—4.10(17A) Public availability. The department will comply with the public availability and filing procedures of Iowa Code section 17A.9A(4).

[**ARC 7420C**, IAB 12/27/23, effective 1/31/24]

281—4.11(17A) After issuance of a waiver.

4.11(1) *Cancellation.* A waiver issued pursuant to this chapter may be withdrawn, canceled or modified if, after appropriate notice and hearing, the director issues an order finding any of the following:

a. 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

b. 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

c. The subject of the waiver order has failed to comply with all conditions contained in the order.

4.11(2) *Violations.* A 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.

4.11(3) *Defense.* After the director 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.

4.11(4) *Judicial review.* Judicial review of the director's decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A.

[**ARC 7420C**, IAB 12/27/23, effective 1/31/24]

281—4.12(17A) Exception. This chapter does not apply to 281—Chapters 36 and 37 or to specific waiver provisions adopted in other chapters.

[**ARC 7420C**, IAB 12/27/23, effective 1/31/24]

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

[Filed 3/20/01, Notice 12/13/00—published 4/18/01, effective 5/23/01]

[Filed ARC 5647C (Notice ARC 5465C, IAB 2/24/21), IAB 6/2/21, effective 7/7/21]

[Filed ARC 7420C (Notice ARC 7085C, IAB 10/4/23), IAB 12/27/23, effective 1/31/24]

CHAPTER 5
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

[Prior to 9/7/88, see Public Instruction Department[670] Ch 83]

Chapter rescission date pursuant to Iowa Code section 17A.7: 5/22/29

The department of education hereby adopts, with the following exceptions and amendments, Uniform Rules of Agency Procedure relating to public records and fair information practices, which are published at www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf on the general assembly's website. Rule 281—5.1(22,256) sets forth the exceptions and additions to rules, numbered X.1(17A,22) through X.8(17A,22), in the uniform rules chapter in roughly the order in which they appear. Rules 281—5.2(22,256) through 281—5.6(22,256) are additional rules specific to the department.

281—5.1(22,256) Exceptions and additions.

5.1(1) *Definition of "agency."* In lieu of the words "(official or body issuing these rules)" in uniform rule X.1, insert "department of education".

5.1(2) *Request for access to record.* In subrule X.3(1), replace the paragraph with "Requests for access to records of the Iowa department of education are to be directed to the Grimes State Office Building, Des Moines, Iowa 50319-0146, regardless of where those records are located."

5.1(3) *Office hours.* In lieu of the words "(insert customary office 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)" in subrule X.3(2), insert "8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays, and legal holidays".

5.1(4) *Fees.* In paragraph X.3(7)*"c,"* in lieu of the words "(specify time period)", insert "one hour". The fee will be $60 per hour.

5.1(5) *Procedure by which additions, dissents, or objections may be entered into certain records.* In rule X.6, in lieu of the words "(designate office)", insert "the office of the director of the agency".

5.1(6) *Consent to disclosure by the subject of a confidential record.* In rule X.7, add the following paragraphs:

X.7(1) A letter from a subject of a confidential record to a public official who 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.

X.7(2) The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 281—5.6(22,256). However, the agency need not release records to the subject in the following circumstances:

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 provided by the Iowa Code. (See Iowa Code section 22.7(5).)

d. As otherwise authorized by law.

X.7(3) 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.

[**ARC 7785C**, IAB 4/17/24, effective 5/22/24]

281—5.2(22,256) Disclosures without the consent of the subject.

5.2(1) Records that are not confidential are routinely disclosed without the consent of the subject.

5.2(2) Records that are confidential will be disclosed outside of the department only with the consent of the subject of the record or in circumstances in which consent of the subject is not legally necessary.

[**ARC 7785C**, IAB 4/17/24, effective 5/22/24]

281—5.3(22,256) Availability of records. Agency records are open for public inspection and copying unless otherwise provided by rule or law. The agency may have discretion to disclose some confidential records that 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 that authorizes limited or discretionary disclosure as provided in rule X.4(17A,22). If the agency initially determines that it will release these records, the agency may, where appropriate, notify interested parties and withhold the records from inspection as provided in this chapter.

[**ARC 7785C**, IAB 4/17/24, effective 5/22/24]

281—5.4(22,256) Personally identifiable information. This rule describes the nature and extent of personally identifiable information that is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule X.1(17A,22). For each record system, this rule describes the legal authority for the collection 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 that in another record system. The record systems maintained by the agency include:

5.4(1) *Staff records of the basic educational data survey.* Records of employees of area educational agencies, merged area schools, and approved public and private schools, whose positions require an Iowa teacher's certificate and contain such personally identifiable information as name, Iowa teacher's certificate number, and social security number. Other data collected are date of birth, teaching experience, sex, current position and assignments. This information is collected pursuant to Iowa Code section 256.9(18). Data processing systems match, collate, and compare the personally identifiable information of the staff records with that of teacher certification records.

5.4(2) *Driver education records.* Driver education records contain personally identifiable information such as name, driver's license number, and Iowa teacher's certificate number collected pursuant to Iowa Code section 321.178. Data processing systems match, collate, and compare the personally identifiable information of the driver education records with that of the teacher certification records and BEDS staff records.

5.4(3) *Bus driver permit records.* Bus driver permit records contain personally identifiable information such as name, social security number, driver's license number, and bus driver's permit number collected pursuant to Iowa Code sections 321.376 and 285.11(10) and 281—Chapter 43. Data processing systems match, collate, and compare the personally identifiable information of the bus driver permit numbers with that of bus accident records.

5.4(4) *Teacher certification records.* Teacher certification records contain information about each individual issued an Iowa teacher's certificate. These records contain such personally identifiable information as name, teacher's certificate number and social security number. Other data collected are date of birth, type and source of degree, completion of mandatory postgraduation coursework, experience, and the subjects and grade level authorized to teach. This information is collected pursuant to Iowa Code section 256.7(3) and 256.7(5). Data processing systems match, collate, and compare the personally identifiable information of the teacher certification records with that of BEDS staff records, driver education records, and career education records.

5.4(5) *Exceptional child survey.* These records are exempt from disclosure under Iowa Code section 22.7(1). The information gathered by this system relates to children and youth eligible for special education. Each student record contains a code derived from the child's name and birth date. The coded identifier is the personally identifiable information. Information in each record pertains to the child's condition and the special education instructional and support-related services provided to the child. Each record may also contain the child's teacher's name and teaching certificate number. This information is collected pursuant to Iowa Code chapter 256B and 34 CFR Parts 300 and 303. Procedures for protection of and access to this information are set forth in this state's plan under 20 U.S.C. §1401 et seq. These policies and procedures comply with the Family Educational Rights and Privacy Act of 1974 (34 CFR Part 90) and 34 CFR Part 300.

This information is stored in an automated data processing system that does not match, collate, or compare the personally identifiable information of the exceptional child survey records with the personally identifiable information of other records systems.

5.4(6) *Department approval—special education placements.* These are requests for approval to place a pupil eligible for special education in an out-of-state educational program and would contain personally identifiable information such as the pupil's name, birth date, residence, condition and other information relative to the identified special education needs of the pupil. Response to these requests for department approval would contain similar information.

This information is collected pursuant to Iowa Code section 273.3(5). Data processing systems do not match, collate, or compare the personally identifiable information with other records. All personally identifiable information gathered through this effort is confidential under the provisions of 34 CFR Parts 90 and 300.

5.4(7) *Special education complaint management system.* Information gathered in this record system is utilized as documentation of concerns or complaints related to special education programs and services to children with disabilities under the provisions of 34 CFR Part 300. Personally identifiable information includes the student's name, parent's name, and the nature of the concern or complaint being registered. Data processing systems do not match, collate, or compare personally identifiable information from these records with personally identifiable information of other records systems. Personally identifiable information gathered by this system is confidential under the provisions of 34 CFR Parts 90 and 300.

5.4(8) *Deaf-blind student registry.* This data collection system gathers information related to deaf-blind children and youth in Iowa. Personally identifiable information items would include the child's name, birth date, location, and services being provided to the child. Information is utilized to plan programs and services for all deaf-blind children and their families in the state. Data processing systems do not compare, collate or match personally identifiable information in this system with personally identifiable information in other data systems. Personally identifiable information gathered and maintained by this system is confidential under the provisions of 34 CFR Parts 90 and 300.

5.4(9) *Career education records.* Career education records contain personally identifiable information such as the names and certificate numbers of staff members employed to conduct career education programs. Other data collected concern approvals, reimbursements, enrollments, expenditures, and student characteristics, and completion status relating to career education programs. This information is collected pursuant to Iowa Code chapter 256, subchapter VII, part 2. Data processing systems match, collate, and compare the personally identifiable information of career education records with that of teacher certification records.

5.4(10) *Drinking driver course records.* These records contain such personally identifiable information as name, address, birth date and social security number. Other data collected are the driver's pre- and post-test scores. This information is collected pursuant to Iowa Code chapter 321J. Data processing systems in this agency do not match, collate, or compare the personally identifiable information of drinking driver records with other record systems.

5.4(11) *Personnel records.* The agency has records concerning individual agency employees, some of which may contain confidential information under Iowa Code section 22.7(11) and other legal provisions. Personnel records may be subject to the rules of the department of administrative services.

5.4(12) *Special project applications.* Applications from public school districts may contain personally identifiable information about qualifications of project staff members. No personally identifiable student data are collected. This information is collected pursuant to Iowa Code sections 257.42 through 257.46.

5.4(13) *Grants/awards/projects.* Records of persons or agencies applying for grants, awards, or funds for projects may contain information about individuals collected pursuant to specific federal or state statutes or regulations. This information may be stored in an automated data processing system.

5.4(14) *Appeal records.* These records contain data supplied by persons or entities appealing to the agency and may contain personally identifiable information such as student name, age, scholastic and disciplinary record, and status as regular or special education pupil. This information is collected pursuant to Iowa Code chapters 256B, 275, 280, 282, and 285. The personally identifiable information is not matched, collated, or compared with data in other record systems.

5.4(15) *Litigation files.* These files or records contain information regarding litigation or anticipated litigation, which includes judicial and administrative proceedings. The records include briefs, depositions, docket sheets, documents, correspondence, attorney notes, memoranda, research materials, witness

information, investigation materials, information compiled under the direction of the attorney, and case management records. The files contain materials that are confidential as attorney work product and attorney-client communications. Some materials are confidential under other applicable provisions of law or because of a court order. Persons wishing copies of pleadings and other documents filed in litigation should obtain these from the clerk of the appropriate court that maintains the official copy.
[**ARC 7785C**, IAB 4/17/24, effective 5/22/24]

281—5.5(22,256) Other groups of records. This rule describes groups of records maintained by the agency other than record systems as defined in rule 281—5.1(22,256). These records are routinely available to the public. However, the agency's files of these records may contain confidential information, which will be addressed as provided in this chapter. The records listed may contain information about individuals.

5.5(1) *Rulemaking.* Rulemaking records 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.

5.5(2) *State board records.* Records contain agendas, minutes, and materials presented to the board. Records concerning closed sessions are exempt from disclosure under Iowa Code section 21.5(4). State board records contain information about people who participate in meetings. This information is collected under the authority of Iowa Code section 21.3. State board records are not stored in an automated data processing system.

5.5(3) *Publications.* Publications include news releases, annual reports, project reports, agency newsletters, etc., which describe various agency programs. Agency news releases, project reports, and newsletters may contain information about individuals, including agency staff or members of agency councils or committees. This information is not stored in an automated data processing system.

5.5(4) *Statistical reports.* Periodic reports of various agency programs are available from the department of education. Statistical reports are not stored in an automated data processing system.

5.5(5) *Address lists/directories.* The names and mailing addresses of members of councils, working groups, program participants and members of the general public evidencing interest in particular programs/events of the agency are maintained in order to provide mailing labels for mass distribution of literature. This information is collected under the provisions of Iowa Code chapter 256.

5.5(6) *Appeal decisions and declaratory rulings.* All final orders, decisions and rulings are available for public inspection in accordance with Iowa Code section 17A.3. These records may contain personally identifiable information regarding individuals who are the subjects of the appeals or rulings. This information is collected pursuant to Iowa Code chapters 17A, 256B, 280, 282, 283A, 285, and 290 and 281—Chapters 6, 7 and 41 and is also available on the department's web page.

5.5(7) *Published materials.* The agency uses many legal and technical publications in its work. The public may inspect these publications upon request. Some of these materials may be protected by copyright law.

5.5(8) *Basic educational data survey system records.* Curriculum, address, policy and procedures, and enrollment records of the basic educational data survey system contain data concerning the curriculum, building, policy and procedures, and enrollment of merged area schools, area education agencies, and approved public and private K-12 educational agencies.

Address records contain the addresses of buildings in which educational agencies are located and the names of the chief administrators of those agencies collected pursuant to Iowa Code sections 256.7 and 256.9.

5.5(9) *Secretary's annual report.* This record contains information related to public school districts' attendance figures, revenues and expenditures.

5.5(10) *Certified enrollment records.* Public school district records with enrollments of resident students in district schools; resident students enrolled in another district; nonresident and out-of-state students enrolled in district schools; and full-time equivalent (FTE) enrollment of shared time, part-time and area school students of high school age. These records do not contain student names or other personally identifiable information.

5.5(11) *School lunch program records.* Records of public and private schools participating in the national school lunch program. Records contain information relating to funds available for reimbursements, advance payments, claims, and reimbursements made to schools; dates that participating schools were inspected; and individual employees of school food services of agencies participating in child nutrition programs. The personally identifiable information is collected pursuant to 7 CFR Section 210.9.

5.5(12) *Commodity distribution records.* Records of the allocation and delivery of federally provided commodities to participating schools.

5.5(13) *Transportation records.* Transportation records contain operational data for school buses.

5.5(14) *Facilities' records.* Records of buildings and additions to buildings owned by public and private K-12 educational agencies.

5.5(15) *Child care food program records.* Records contain information concerning advance payments made to institutions participating in the federal child care food program, agreements between institutions and their sites with program administrators, claims and reimbursements for meals served, and inspections of programs. The name of each program administrator is included in agreement records collected pursuant to 7 CFR Section 226.6(e)(1).

5.5(16) *Career information system.* Records of a project that stores and utilizes occupational and educational data for student use in career decision making.

5.5(17) *Merged area school records.* These records contain data concerning equipment (inventory), enrollment (by sex and residence), and the number of pupils completing programs.

5.5(18) *High school equivalency diploma records.* General equivalency diploma (GED) records contain the names, addresses, social security numbers, and test scores of individuals granted an Iowa high school equivalency diploma. This information is collected pursuant to Iowa Code chapter 259A.

5.5(19) *Area education agency budget records.* These records contain data used by the state board of education to approve AEA annual budgets.

5.5(20) *Area education agency annual financial report records.* These records contain data relating to revenue, expenditures, and balances as well as the number of AEA employees in each program.

5.5(21) *Juvenile home records.* The juvenile home educational program budget and claim documents collect financial, employee, and student operation data. Budget records are used by the agency for program approval. Claim records are used for approving reimbursements and program results.

5.5(22) *Nonpublic school pupil textbook services records.* These records contain data on public school per pupil textbook expenditures, number of resident nonpublic school pupils requesting textbook services and the cost of providing textbook services for nonpublic school pupils.

5.5(23) *Nonpublic school pupils transportation services claims.* These records contain data on expenditures for providing transportation to pupils attending approved nonpublic schools and requests for reimbursement.

[**ARC 7785C**, IAB 4/17/24, effective 5/22/24]

281—5.6(22,256) Applicability. This chapter does not:

1. Compel the agency to create a record that does not otherwise exist.
2. Require the agency to index or retrieve records that contain information about individuals by that person's name or other personal identifier.
3. Make available to the general public records that would otherwise not be available under the public records law, Iowa Code chapter 22.
4. Govern the maintenance or disclosure of, notification of or access to records in the possession of the agency that are governed by the rules of another agency. This chapter applies to all records of the department of education. This chapter does not apply to the records of the following agencies under the department that have their own rulemaking authority: college student aid commission, educational examiners board, and school budget review committee.
5. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.
6. 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 is governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable rules of the agency.
[**ARC 7785C**, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code section 22.11.

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CHAPTER 6
APPEAL PROCEDURES

[Prior to 9/7/88, see Public Instruction Department[670] Ch 51]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/31/29

281—6.1(290) Scope of chapter. This chapter applies to all hearing requests seeking appellate review by the state board of education, the director of education, or the department of education.
[**ARC 7427C**, IAB 12/27/23, effective 1/31/24]

281—6.2(256,290,17A) Definitions. The definitions contained in rule X.2 of the Uniform Rules on Agency Procedure for contested cases, effective on July 1, 1999, which are published on the general assembly's website at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf, are incorporated by reference. The following additional definitions apply to this chapter:

"Appellant" refers to a party bringing an appeal to the state board of education, the director of education, or the department of education.

"Appellee" refers to the party in a matter against whom an appeal is taken or the party whose interest is adverse to the reversal of a prior decision now on appeal to the state board of education, the director of education, or the department of education.

"Board" means the state board of education.

"Department" means the department of education.

"Designated office" means the Iowa Department of Education, Grimes State Office Building, 400 East 14th Street, Des Moines, Iowa 50319, or as ordered by the presiding officer.

"Director" refers to the director of education.

"Presiding officer" means the director of the department of education or the designated administrative law judge.
[**ARC 7427C**, IAB 12/27/23, effective 1/31/24]

281—6.3(290,17A) Incorporation by reference. The following rules from the Uniform Rules on Agency Procedure for contested cases, effective on July 1, 1999, are incorporated by reference:

1. X.7(17A) Waiver of procedures.
2. X.9(17A) Disqualification.
3. X.10(17A) Consolidation—severance.
4. X.12(17A) Service and filing of pleadings and other papers.
5. X.13(17A) Discovery.
6. X.14(17A) Subpoenas, with the following addition: Witnesses and serving officers may be allowed the same compensation as is paid for like attendance or service in district court. The witness's fees and mileage are considered costs of any appeal filed under Iowa Code chapter 290, and costs are assigned to the nonprevailing party. The witness's fees and expenses for hearings brought under other statutes and rules are the responsibility of the party requesting or subpoenaing the witness.
7. X.15(17A) Motions.
8. X.16(17A) Prehearing conference.
9. X.17(17A) Continuances.
10. X.19(17A) Intervention.
11. X.20(17A) Hearing procedures.
12. X.21(17A) Evidence.
13. X.22(17A) Default, with the following correction: The reference to Iowa Rule of Civil Procedure 236 is corrected to Rule 1.977.
14. X.23(17A) Ex parte communication.
15. X.24(17A) Recording costs.
16. X.28(17A) Applications for rehearing.
17. X.29(17A) Stays of agency actions.
18. X.30(17A) No factual dispute contested cases.

19. X.31(17A) Emergency adjudicative proceedings.

[**ARC 7427C**, IAB 12/27/23, effective 1/31/24]

281—6.4(290,17A) Manner of appeal.

6.4(1) An appeal under this chapter is started by filing an affidavit, unless an affidavit is not obligated by the statute establishing the right of appeal. The affidavit is to set forth the facts, any error complained of, or the reasons for the appeal in a plain and concise manner and be signed by the appellant. The affidavit is to be delivered to the office of the director by United States Postal Service, facsimile (fax), electronic mail, or personal service. The affidavit is considered filed with the agency on the date of the United States Postal Service postmark, the date of arrival of the facsimile, the date of arrival of the electronic mail message, or the date personal service is made. Time will be computed as provided in Iowa Code section 4.1(34).

6.4(2) The director or designee, within five days after the filing of such affidavit, will notify the proper officer in writing of the taking of an appeal. The officer, within ten days, will file with the board a complete certified transcript of the record and proceedings related to the decision appealed. A certified copy of the minutes of the meeting of the governmental body making the decision appealed will satisfy this rule.

6.4(3) The director or designee will send written notice by certified mail, return receipt requested, at least ten days prior to the hearing, unless the ten-day period is waived by all parties, to all persons known to be interested. Such notice includes the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing is to be held; a reference to the particular sections of the statutes and rules involved; and a short and plain statement of the matters asserted. A copy of the appeal hearing rules will be included with the notice.

The notice of hearing will contain the following information: identification of all parties including the name, address and telephone number of the person who will act as advocate for the agency or the state and of parties' counsel where known; reference to the procedural rules governing conduct of the contested case proceeding; reference to the procedural rules governing informal settlement; and identification of the presiding officer, if known (if not known, a description of who will serve as presiding officer (e.g., director of the department or administrative law judge from the department of inspections, appeals, and licensing)).

6.4(4) An amendment to the affidavit of appeal may be made by the appellant up to ten working days prior to the hearing. With the agreement of all parties, an amendment may be made until the hearing is closed to the receipt of evidence.

[**ARC 7427C**, IAB 12/27/23, effective 1/31/24]

281—6.5(17A) Record. The record of a contested case or appeal is described in Iowa Code section 17A.12(6).

[**ARC 7427C**, IAB 12/27/23, effective 1/31/24]

281—6.6(290,17A) Decision and appeal.

6.6(1) The presiding officer, after due consideration of the record and the arguments presented, will make a decision on the appeal. The proposed decision will be mailed to the parties or their representatives by regular mail. The parties may elect to receive the proposed decision by other means, such as electronic mail or electronic filing.

6.6(2) The decision may only be based on the laws of the United States, the state of Iowa and the regulations and policies of the department of education and in the best interest of education.

6.6(3) A proposed decision of the presiding officer, if there is no appeal under subrule 6.6(4), is placed on the consent agenda of the next regular board meeting for summary adoption, unless the decision is within the province of the director to make.

6.6(4) Any adversely affected party may appeal a proposed decision to the state board within 20 days after issuance of the proposed decision by filing a notice of appeal with the office of the director. The notice of appeal will be signed by the appealing party or a representative of that party, contain a certificate of service (or other evidence of service), and specify:

a. The names and addresses of the parties initiating the appeal;

b. The proposed decision to be appealed;

c. The specific findings or conclusions to which exception is taken and any other exceptions to the decision;

d. The relief sought; and

e. The grounds for relief.

6.6(5) Unless otherwise ordered, within 15 days of a party's filing of the notice of appeal, each appealing party may file exceptions and briefs. Within ten days after the filing of exceptions and briefs by the appealing party, any party may file a responsive brief. Briefs shall cite any applicable legal authority, specify relevant portions of the record in the proceeding below, and be limited to a maximum length of 25 pages. An opportunity for oral arguments may be given with the consent of the board. To be granted oral argument, a party must file a request to present oral arguments with the party's briefs. With or without oral argument, the appeal of the proposed decision will be placed on the next regular board agenda.

6.6(6) The board may affirm, modify, or vacate the decision or may direct a rehearing before the director or the director's designee.

6.6(7) Copies of the final decision will be sent to the parties or their representatives by regular mail within five days after state board action, if mandated, on the proposed decision.

6.6(8) No individual who participates in the making of any decision may have advocated in connection with the hearing, the specific controversy underlying the case, or other pending factually related matters. Nor may any individual who participates in the making of any proposed decision be subject to the authority, direction, or discretion of any person who has advocated in connection with the hearing, the specific controversy underlying the hearing, or a pending related matter involving the same parties.

[**ARC 7427C**, IAB 12/27/23, effective 1/31/24]

281—6.7(256,17A) Specific programs.

6.7(1) *General rule.* If a specific federal program's statutes or regulations impose criteria for appeals to the state board of education, the director of education, or the department of education, those specific criteria govern and are incorporated by reference.

6.7(2) *Specific programs.* The following is a nonexhaustive list to which this rule applies:

a. Appeals under the Child and Adult Care Food Program (CACFP) are governed by the criteria contained in 7 CFR Section 226.6 as of May 1, 2023.

b. Due process complaints under Part B of the Individuals with Disabilities Education Act, 20 U.S.C. 1411 et seq., and Iowa Code chapter 256B are governed by 281—Chapter 41.

c. Due process complaints under Part C of the Individuals with Disabilities Education Act, 20 U.S.C. 1431 et seq., are governed by 281—Chapter 120.

[**ARC 7427C**, IAB 12/27/23, effective 1/31/24]

These rules are intended to implement Iowa Code sections 256.7(6) and 256.9(17) and chapters 17A and 290.

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CHAPTER 7
CRITERIA FOR GRANTS

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/31/29

281—7.1(256,17A) General. To ensure equal access and objective evaluation of applicants for competitive program grant funds made available by the Iowa department of education (department), grant application materials are to contain, at minimum, specific content. The department develops competitive program grant application packets in accordance with these rules unless in conflict with appropriation language, the Iowa Code, the Iowa Administrative Code, federal regulations, or interagency agreements between the department and other state agencies.
[**ARC 7431C**, IAB 12/27/23, effective 1/31/24]

281—7.2(256,17A) Definitions. For the purpose of these rules, the following definitions apply:

"Competitive program grant" means the collective activities of a competitive grant funded through the department.

"Program period" means the period of time that the department intends to support the program without requiring the recompetition for funds. The program period is specified within the grant application.

"Service delivery area" means the defined geographic area for delivery of program services.
[**ARC 7431C**, IAB 12/27/23, effective 1/31/24]

281—7.3(256,17A) Grant application contents. All competitive program grant application materials made available by the department are to include the following:

1. Funding source.
2. Program period.
3. Description of eligible applicants.
4. Services to be delivered.
5. Service delivery area.
6. Target population to be served (if applicable).
7. Funding purpose.
8. Funding restrictions.
9. Funding formula (if any).
10. Matching requirement (if any).
11. Reporting requirements.
12. Performance criteria.
13. Need for letters of support or other materials (if applicable).
14. Application due date.
15. Anticipated date of awarding grant.
16. Required components of submitted grant applications.
17. An explanation of the review process and the review criteria to be used by application evaluators, including the number of points allocated per evaluated component.
18. Appeal process in the event an application is denied.

[**ARC 7431C**, IAB 12/27/23, effective 1/31/24]

281—7.4(256,17A) Review process. The review process to be followed in determining the amount of funds to be approved for any competitive program grant will be described in the application, including the review criteria and point allocation for each criterion.

7.4(1) The competitive program grant review committee will be determined by the appropriate division administrator. The review committee members will allocate points per review criterion when conducting the review.

7.4(2) In the event competitive program grant applications receive an equal number of points that necessitates a further determination of whether an applicant is to receive a grant, a second review will be conducted by the division administrator or the division administrator's designee.

[**ARC 7431C**, IAB 12/27/23, effective 1/31/24]

281—7.5(290,17A) Appeal of grant denial or termination. Any applicant may appeal the denial of a properly submitted competitive program grant application or the unilateral termination of a competitive program grant to the director of the department.

7.5(1) Appeals are to be:

a. In writing,

b. Received within ten working days of the date of the notice of decision, and

c. Based on a contention that the process was conducted outside of statutory authority; violated state or federal law, policy, or rule; did not provide adequate public notice; was altered without adequate public notice; or involved conflict of interest by staff or committee members.

7.5(2) The hearing and appeal procedures found in 281—Chapter 6 that govern the director's decisions apply to any appeal of denial or termination.

7.5(3) In the notice of appeal, the grantee will give a short and plain statement of the reasons for the appeal.

7.5(4) The director will issue a decision within a reasonable time, not to exceed 60 days from the date of the hearing.

[**ARC 7431C**, IAB 12/27/23, effective 1/31/24]

These rules are intended to implement Iowa Code section 256.9(7).

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CHAPTER 8
ICN SUBSIDIZATION REIMBURSEMENT PROCEDURES
Rescinded IAB 12/16/98, effective 1/20/99

CHAPTERS 9 and 10
Reserved

TITLE II
ACCREDITED SCHOOLS AND SCHOOL DISTRICTS

CHAPTER 11
UNSAFE SCHOOL CHOICE OPTION
Rescinded **ARC 7786C**, IAB 4/17/24, effective 5/22/24

CHAPTER 12
GENERAL ACCREDITATION STANDARDS

[Prior to 9/7/88, see Public Instruction Department[670] Ch 4]

Chapter rescission date pursuant to Iowa Code section 17A.7: 5/22/29

281—12.1(256) General standards.

12.1(1) *Schools and school districts governed by general accreditation standards.* To become or remain accredited, school districts and accredited nonpublic schools are to comply with Iowa Code section 256.11 and this chapter.

12.1(2) *School board.* Each school or school district shall be governed by an identifiable authority that exercises the functions necessary for the effective operation of the school and is referred to in these rules as the "board" and as referenced in Iowa Code sections 280.2 and 280.3.

12.1(3) *Application for accreditation.*

a. The board of any school or school district that is not accredited on the effective date of these standards and that seeks accreditation shall file an application with the director of the department on or before the first day of January of the school year preceding the school year for which accreditation is sought.

b. The board of any school or school district that is not accredited on the effective date of these standards and that seeks accreditation from the department shall file an application with the director of the department on or before the first day of January of the school year preceding the school year for which accreditation is sought.

c. Nonpublic schools seeking accreditation under rule 281—12.10(256) shall provide evidence of accreditation by an organization approved under subrule 12.10(1) and such assurances of compliance with Iowa school law that the department may prescribe.

12.1(4) *Accredited schools and school districts.* Each school or school district receiving accreditation under the provisions of these standards will remain accredited except when by action of the state board of education it is removed from the list of accredited schools maintained by the department in accordance with Iowa Code sections 256.11(11) and 256.11(12).

12.1(5) *When nonaccredited.* A school district is nonaccredited on the day after the date it is removed from the list of accredited schools by action of the state board of education. A nonpublic school is nonaccredited on the date established by the resolution of the state board, which will be no later than the end of the school year in which the nonpublic school is declared to be nonaccredited.

12.1(6) *Alternative provisions for accreditation.* School districts may meet accreditation requirements through the provisions of Iowa Code sections 256.13, nonresident students; 273.7A, services to school districts; 279.20, superintendent—term; 280.15, joint employment and sharing; 282.7, attending in another corporation—payment; and 282.10, whole grade sharing. Nonpublic schools may meet accreditation requirements through the provisions of Iowa Code section 256.12.

12.1(7) *Minimum school calendar.* The minimum school calendar is set, either by a minimum number of hours or a minimum number of days, pursuant to Iowa Code sections 256.7(19), 279.10, and 279.11.

12.1(8) *Kindergarten.* The number of instructional days or hours within the school calendar and the length of the school day for kindergarten will be defined by the board or by authorities in charge of an accredited nonpublic school that operates a kindergarten program.

[**ARC 7787C**, IAB 4/17/24, effective 5/22/24]

281—12.2(256) Definitions. For purposes of this chapter, the following definitions apply:

"Age-appropriate," with the exception of the human growth and development, means topics, messages, and teaching methods suitable to particular ages or age groups of children and adolescents, based on developing cognitive, emotional, and behavioral capacity typical for the age or age group. "Age-appropriate" does not include any material with descriptions or visual depictions of a sex act. A reference or mention of a sex act in a way that does not describe or visually depict a sex act as defined in these rules is not included in the previous sentence. For purposes of human growth and development instruction required by Iowa Code section 279.50, "age-appropriate" means topics, messages, and teaching methods

suitable to particular ages or age groups of children and adolescents, based on developing cognitive, emotional, and behavioral capacity typical for the age or age group.

"Annual improvement goals" means the desired one-year rate of improvement for students. Data from multiple measures may be used to determine the rate of improvement.

"Baseline data" means information gathered at a selected point in time and used thereafter as a basis from which to monitor change.

"Benchmarks" means specific knowledge and skills anchored to content standards that a student needs to accomplish by a specific grade or grade span.

"Board" means the board of directors in charge of a public school district or the authorities in charge of an accredited nonpublic school.

"Competency-based education" means that learners advance through content or earn credit based on demonstration of proficiency of competencies. Proficiency for this context is the demonstrated skill or knowledge required to advance to and be successful in higher levels of learning in that content area. Some students may advance through more content or earn more credit than in a traditional school year while others might take more than a traditional school year to advance through the same content and to earn credit. A student must meet the requirements of subrule 12.5(13) to be awarded credit in a competency-based system of education.

"Curriculum" means a plan that outlines what students shall be taught. Curriculum refers to all the courses offered, or all the courses offered in a particular area of study.

"Department" means the department of education.

"Districtwide" means all attendance centers within a school district or accredited nonpublic school.

"Districtwide assessments" means large-scale achievement or performance measures. At least one districtwide assessment shall allow for the following: the comparison of the same group of students over time as they progress through the grades or the cross-sectional comparison of students at the same grades over multiple years.

"Districtwide progress" means the quantifiable change in school or school district student achievement and performance.

"Dropout" means a school-age student who is served by a public school district and enrolled in any of grades 7 through 12 and who does not attend school or withdraws from school for a reason other than death or transfer to another approved school or school district or has been expelled with no option to return.

"Educational program." The educational program adopted by the board is the entire offering of the school, including out-of-class activities and the sequence of curriculum areas and activities. The educational program will provide articulated, developmental learning experiences from the date of student entrance until high school graduation.

"Enrolled student" means a person who has officially registered with the school or school district and is taking part in the educational program.

"Indicators" provide information about the general status, quality, or performance of an educational system.

"Library program" means an articulated sequential kindergarten through grade 12 library or media program that enhances student achievement and is integral to the school district's curricula and instructional program. The library program is planned and implemented by a qualified teacher librarian working collaboratively with the district's administration and instructional staff. The library program services provided to students and staff will include the following:

1. Support of the overall school curricula;
2. Collaborative planning and teaching;
3. Promotion of reading and literacy;
4. Information literacy instruction;
5. Access to a diverse and appropriate school library collection; and
6. Learning enhancement through technologies.

"Long-range goals" means desired targets to be reached over an extended period of time.

"Multiple assessment measures," for reporting to the local community or the state, means more than one valid and reliable instrument that quantifies districtwide student learning, including specific grade-level data.

"Performance levels." The federal Elementary and Secondary Education Act (ESEA) requires that at least three levels of performance be established to assist in determining which students have or have not achieved a satisfactory or proficient level of performance. At least two of those three levels will describe what all students ought to know or be able to do if their achievement or performance is deemed proficient or advanced. The third level will describe students who are not yet performing at the proficient level. A school or school district may establish more than three performance levels that include all students for districtwide or other assessments.

"Prekindergarten program" includes a school district's implementation of the preschool program pursuant to Iowa Code chapter 256C.

"Proficient," as it relates to content standards, characterizes student performance at a level that is acceptable by the school or school district.

"School" means an accredited nonpublic school.

"School counseling program" means an articulated sequential kindergarten through grade 12 program that is comprehensive in scope, preventive in design, developmental in nature, driven by data, and integral to the school district's curricula and instructional program. The program is implemented by at least one school counselor, appropriately licensed by the board of educational examiners, who works collaboratively with the district's administration and instructional staff. The program standards are described in subrule 12.3(11). The program's delivery system components will include the following:

1. School guidance curriculum;
2. Support of the overall school curriculum;
3. Individual student planning;
4. Responsive services; and
5. System support.

"School district" means a public school district.

"School improvement advisory committee" means a committee, as defined in Iowa Code section 280.12, that is appointed by the board. Committee membership will include students, parents, teachers, administrators, and representatives from the local community that may include business, industry, labor, community agencies, higher education, or other community constituents. To the extent possible, committee membership is to have balanced representation of the following: race, gender, national origin, and disability. The school improvement advisory committee as defined by Iowa Code section 280.12 and the board are also part of, but not inclusive of, the local community.

"Sex act" means any sexual contact between two or more persons by any of the following:

1. Penetration of the penis into the vagina or anus.
2. Contact between the mouth and genitalia or mouth and anus or by contact between the genitalia of one person and the genitalia or anus of another person.
3. Contact between the finger, hand, or other body part of one person and the genitalia or anus of another person, except in the course of examination or treatment by a person licensed pursuant to Iowa Code chapters 148, 148C, 151, or 152.
4. Ejaculation onto the person of another.
5. Use of artificial sexual organs or substitutes therefore in contact with the genitalia or anus.
6. The touching of a person's own genitals or anus with a finger, hand, or artificial sexual organ or other similar device at the direction of another person.

"Student learning goals" means general statements of expectations for all graduates.

"Students with disabilities" means students who have individualized education programs regardless of the disability.

"Subgroups" means a subset of the student population that has a common characteristic. Subgroups include, but are not limited to, gender, race, students with disabilities, and socioeconomic status.

[**ARC 7787C**, IAB 4/17/24, effective 5/22/24; **ARC 8147C**, IAB 7/24/24, effective 8/28/24]

281—12.3(256) Administration. The following standards apply to the administration of accredited schools and school districts.

12.3(1) *Board records.* Each board is to adopt by written policy a system for maintaining accurate records. The system will provide for recording and maintaining the minutes of all board meetings, coding all receipts and expenditures, and recording and filing all reports required by the Iowa Code or requested by the director of the department. Financial records of school districts are to be maintained in a manner as to be easily audited according to accepted accounting procedures.

12.3(2) *Policy manual.* The board shall develop and maintain a policy manual that provides a codification of its policies, including the adoption date, the review date, and any revision date for each policy. Policies shall be reviewed at least every five years to ensure relevance to current practices and compliance with the Iowa Code, administrative rules and decisions, and court decisions.

12.3(3) *Personnel evaluation.* Each board will adopt evaluation criteria and procedures that conform to Iowa Code sections 279.14 and 279.23A for all contracted staff.

12.3(4) *Student records.* Each board will establish and maintain a system of student records, which will include for each student a permanent office record and a cumulative record.

The permanent office record serves as a historical record of official information concerning the student's education. The permanent office record is to be recorded and maintained under the student's legal name. At a minimum, the permanent office record will contain evidence of attendance and educational progress, serve as an official transcript, contain other data for use in planning to meet student needs, and provide data for official school and school district reports. This record is to be permanently maintained and stored in a fire-resistant safe or vault or can be maintained and stored electronically with a secure backup file.

The cumulative record provides a continuous and current record of significant information on progress and growth. It should reflect information such as courses taken, scholastic progress, school attendance, physical and health record, experiences, interests, aptitudes, attitudes, abilities, honors, extracurricular activities, part-time employment, and future plans. It is the "working record" used by the instructional professional staff in understanding the student. At the request of a receiving school or school district, a copy of the cumulative record will be sent to officials of that school when a student transfers.

For the sole purpose of implementing an interagency agreement with state and local agencies in accordance with Iowa Code section 280.25, a student's permanent record may include information contained in the cumulative record as defined above.

The board is to adopt a policy concerning the accessibility and confidentiality of student records that complies with the provisions of the federal Family Educational Rights and Privacy Act of 1974, as effective on February 7, 2024, and Iowa Code chapter 22.

12.3(5) *Requirements for graduation.* Each board providing a program through grade 12 will adopt a policy establishing the requirements students will meet for high school graduation. This policy will make provision for early graduation and be consistent with these requirements, Iowa Code sections 280.14 and 256.7(26).

12.3(6) *Student responsibility and discipline.* The board will adopt student responsibility and discipline policies as required by Iowa Code section 279.8. The board will involve parents, students, instructional and noninstructional professional staff, and community members in the development and revision of those policies where practicable or unless specific policy is mandated by legislation. The policies will relate to the educational purposes of the school or school district. The policies will include the following: attendance; use of tobacco; the use or possession of alcoholic beverages or any controlled substance; harassment of or by students and staff as detailed in subrule 12.3(13); violent, destructive, and seriously disruptive behavior; suspension, expulsion, emergency removal, weapons, and physical restraint; out-of-school behavior; participation in extracurricular activities; academic progress; and citizenship.

The policies will ensure due process rights for students and parents, including consideration for students who have been identified as requiring special education programs and services.

The board will also consider the potential, disparate impact of the policies on students because of race, color, national origin, gender, sexual orientation as defined in Iowa Code section 216.2, gender identity as defined in Iowa Code section 216.2, disability, religion, creed, or socioeconomic status.

The board will publicize its support of these policies, its support of the staff in enforcing them, and the staff's accountability for implementing them.

12.3(7) *Audit of school funds.* This subrule applies to school districts. The results of the annual audit of all school district funds conducted by the state auditor or a private auditing firm will be made part of the official records of the board as described in Iowa Code section 11.6.

12.3(8) *School or school district building grade-level organization.* The board shall adopt a grade-level organization for the buildings under its jurisdiction as described in Iowa Code sections 279.39 and 280.3.

12.3(9) *Standards for school counseling programs.* Each school district will establish a kindergarten through grade 12 comprehensive school counseling program, driven by student data and based on standards in academic, career, personal, and social areas, which supports the student achievement goals of the total school curriculum and to which all students have equitable access.

a. A qualified school counselor, licensed by the board of educational examiners, who works collaboratively with students, teachers, support staff and administrators will direct the program and provide services and instruction in support of the curricular goals of each attendance center. The school counselor is the member of the attendance center instructional team with special expertise in identifying resources and technologies to support teaching and learning. The school counselor and classroom teachers will collaborate to develop, teach, and evaluate attendance center curricular goals with emphasis on the following:

(1) Sequentially presented curriculum, programs, and responsive services that address growth and development of all students; and

(2) Attainment of student competencies in academic, career, personal, and social areas.

b. The program will be regularly reviewed and revised and designed to provide all of the following:

(1) Curriculum that is embedded throughout the district's overall curriculum and systemically delivered by the school counselor in collaboration with instructional staff through classroom and group activities and that consists of structured lessons to help students achieve desired competencies and to provide all students with the knowledge and skills appropriate for their developmental levels;

(2) Individual student planning through ongoing systemic activities designed to help students establish educational and career goals to develop future plans;

(3) Responsive services through intervention and curriculum that meet students' immediate and future needs as occasioned by events and conditions in students' lives and that may require any of the following: individual or group counseling; consultation with parents, teachers, and other educators; referrals to other school support services or community resources; peer helping; and information; and

(4) Systemic support through management activities that establish, maintain, and enhance the total school counseling program, including professional development, consultation, collaboration, program management, and operations.

12.3(10) *Standards for library programs.*

a. The board of directors of each school district shall establish a kindergarten through grade 12 library program to support the student achievement goals of the total school curriculum as referenced in Iowa Code section 256.11(9). The board of directors of each school district will adopt policies to address selection and reconsideration of school library materials; confidentiality of student library records; and legal and ethical use of information resources, including plagiarism and intellectual property rights.

b. Each school district shall establish a kindergarten through grade 12 library program that is consistent with Iowa Code section 280.6 and with the educational standards established in this chapter, that contains only age-appropriate materials, and that supports the student achievement goals of the total school curriculum. In complying with the requirements in Iowa Code section 279.77(3), the district, if it does not make available a comprehensive list of all books available to all students in libraries offered by the district on its website in real time, must post an updated list at least two times per calendar year.

c. Support, monitoring, and enforcement.

(1) If, after investigation, the department determines that a school district or an employee of a school district has violated the provisions of this subrule related to library programs containing only age-

appropriate materials, beginning January 1, 2024, the school district or employee of the school district, as applicable, shall be subject to the following:

1. For the first violation of this subrule, the department shall issue a written warning to the board of directors of the school district or the employee, as applicable.

2. For a second or subsequent violation of this subrule, if the department finds that a school district knowingly violated this subrule, the superintendent of the school district shall be subject to a hearing conducted by the board of educational examiners that may result in disciplinary action.

3. For a second or subsequent violation of this subrule, if the department finds that an employee of the school district who holds a license, certificate, authorization, or statement of recognition issued by the board of educational examiners knowingly violated this subrule, the employee shall be subject to a hearing conducted by the board of educational examiners that may result in disciplinary action.

(2) This paragraph relates solely to library programs operated by the district, which means library programs over which the district exercises administrative control.

(3) Concerning enforcement provisions relating to library books containing only age-appropriate materials, the department may exercise enforcement discretion if any violation is voluntarily and permanently corrected prior to the department making a determination of a violation.

(4) For library collections that serve multiple grade ranges, the district will exercise reasonable physical, administrative, and technological controls to ensure that students have access to age-appropriate materials based on the students' ages and grades.

12.3(11) *Policy declaring harassment and bullying against state and school policy.* Each school and school district will adopt a policy declaring harassment and bullying against state and school policy and complying with the terms of Iowa Code section 280.28.

12.3(12) *Policy prohibiting the aiding and abetting of sexual abuse.*

a. General. The department and each public school district and area education agency shall adopt policies that prohibit any individual who is a school employee, contractor, or agent, or any state educational agency or local educational agency, from assisting a school employee, contractor, or agent in obtaining a new job, apart from the routine transmission of administrative and personnel files, if the individual or agency knows, or has probable cause to believe, that such school employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law.

b. Exception. The requirements of paragraph 12.3(12)*"a"* do not apply if all of the following conditions are met.

(1) The information giving rise to probable cause has been properly reported to a law enforcement agency with jurisdiction over the alleged misconduct; and has been properly reported to any other authorities as required by federal, state, or local law, including Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) and the regulations implementing such title under Part 106 of Title 34, Code of Federal Regulations, or any succeeding regulations.

(2) The matter has been officially closed or the prosecutor or police with jurisdiction over the alleged misconduct have investigated the allegations and notified school officials that there is insufficient information to establish probable cause that the school employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law; or the school employee, contractor, or agent has been charged with, and acquitted or otherwise exonerated of, the alleged misconduct; or the case or investigation remains open and there have been no charges filed against, or indictment of, the school employee, contractor, or agent within four years of the date on which the information was reported to a law enforcement agency.

12.3(13) *Display of United States flag, Iowa state flag, Pledge of Allegiance.* Iowa Code section 280.5 is incorporated by this reference.

12.3(14) *Parental rights in education.*

a. A school district shall not knowingly give false or misleading information to the parent or guardian of a student regarding the student's gender identity or intention to transition to a gender that is different than the sex listed on a student's official birth certificate or certificate issued upon adoption if the certificate was issued at or near the time of the student's birth.

b. If a student enrolled in a school district requests an accommodation that is intended to affirm the student's gender identity from a licensed practitioner employed by the school district, including a request that the licensed practitioner address the student using a name or pronoun that is different than the name or pronoun assigned to the student in the school district's registration forms or records, the licensed practitioner shall report the student's request to an administrator employed by the school district, and the administrator shall report the student's request to the student's parent or guardian. Concerning a student's request to use a name that is different from the name on the student's registration forms or records, that request is governed by this subrule only if the request is an accommodation intended to affirm a student's gender identity.

c. If, after investigation, the department determines that a school district or an employee of a school district has violated this subrule, the school district or employee of the school district, as applicable, shall be subject to the following:

(1) For the first violation of this subrule, the department shall issue a written warning to the board of directors of the school district or the employee, as applicable.

(2) For a second or subsequent violation of this subrule, if the department finds that a school district knowingly violated this subrule, the superintendent of the school district shall be subject to a hearing conducted by the board of educational examiners, which may result in disciplinary action.

(3) For a second or subsequent violation of this subrule, if the department finds that an employee of the school district who holds a license, certificate, authorization, or statement of recognition issued by the board of educational examiners knowingly violated this subrule, the employee shall be subject to a hearing conducted by the board of educational examiners, which may result in disciplinary action.

d. Concerning enforcement of this subrule, the department may exercise enforcement discretion if any violation is voluntarily and permanently corrected prior to the department making a determination of a violation.

12.3(15) *Compliance with Iowa Code section 279.80.*

a. A school district shall not provide any program, curriculum, test, survey, questionnaire, promotion, or instruction relating to gender identity or sexual orientation to students in kindergarten through grade six.

b. "Gender identity" and "sexual orientation" have the same meanings as those given in Iowa Code section 216.2.

c. In monitoring and enforcing this subrule, the department will not conclude that a neutral statement regarding sexual orientation or gender identity violates Iowa Code section 279.80 or this subrule.

[**ARC 7787C**, IAB 4/17/24, effective 5/22/24; **ARC 8147C**, IAB 7/24/24, effective 8/28/24; **ARC 8240C**, IAB 10/2/24, effective 11/6/24; **ARC 8982C**, IAB 3/5/25, effective 4/9/25]

281—12.4(256) School personnel. License/certificate and endorsement standards required in this rule relate to licenses/certificates and endorsements issued by the state board of educational examiners as referenced in Iowa Code chapter 256, subchapter VII, part 3. The following standards apply to personnel employed in accredited schools:

12.4(1) *Instructional professional staff.* Each person who holds a license/certificate endorsed for the service for which that person is employed is eligible for classification as a member of the instructional professional staff as referenced in Iowa Code section 279.13.

12.4(2) *Noninstructional professional staff.* A person who holds a statement of professional recognition, including a physician, dentist, nurse, speech therapist, or a person in one of the other noninstructional professional areas designated by the state board of education, is eligible for classification as a member of the noninstructional professional staff.

12.4(3) *Basis for approval of professional staff.* Each member of the professional staff will be classified as either instructional or noninstructional. An instructional professional staff member will be regarded as approved when holding either an appropriate license/certificate with endorsement or endorsements, or a license/certificate with an endorsement statement, indicating the specific teaching assignments that may be given. A noninstructional professional staff member will be regarded as approved when holding a statement of professional recognition for the specific type of noninstructional professional school service for which employed.

12.4(4) *Required administrative personnel.* Each board that operates both an elementary school and a secondary school will employ as its executive officer and chief administrator a person who holds a license/certificate endorsed for service as a superintendent. The board of a school district may meet this provision by contracting with its area education agency for "superintendency services" as provided by Iowa Code section 273.7A. The individual employed or contracted for as superintendent may serve as an elementary principal or as a high school principal in that school or school district provided that the superintendent holds the proper licensure/certification. For purposes of this subrule, high school means a school that commences with either grade 9 or grade 10, as determined by the board of directors of the school district, or by the governing authority of the nonpublic school in the case of nonpublic schools. Boards of school districts may jointly employ a superintendent, provided such arrangements comply with the provisions of Iowa Code section 279.23(4).

12.4(5) *Staffing policies—elementary schools.* The board operating an elementary school will develop and adopt staffing policies designed to attract, retain, and effectively utilize competent personnel. Each board operating an elementary school will employ at least one elementary principal. This position may be combined with that of secondary principal or with a teaching assignment at the elementary or secondary level, provided the individual holds the proper licenses/certificates and endorsements.

When grades 7 and 8 are part of an organized and administered junior high school, the staffing policies adopted by the board for secondary schools apply. When grades 7 and 8 are part of an organized and administered middle school, the staffing policies adopted by the board for elementary schools apply.

12.4(6) *Staffing policies—secondary schools.* The board operating a secondary school will develop and adopt staffing policies designed to attract, retain, and effectively utilize competent personnel. Each board operating a secondary school will employ at least one secondary principal. This position may be combined with that of elementary principal or with a teaching assignment at the elementary or secondary level, provided the individual holds the proper licenses/certificates and endorsements. This position may be combined with that of superintendent, but one person may not serve as elementary principal, secondary principal, and superintendent.

12.4(7) *Principal.* "Principal" means a licensed/certificated member of a school's instructional staff who serves as an instructional leader, coordinates the process and substance of educational and instructional programs, coordinates the budget of the school, provides formative evaluation for all practitioners and other persons in the school, recommends or has effective authority to appoint, assign, promote, or transfer personnel in a school building, implements the local school board's policy in a manner consistent with professional practice and ethics, and assists in the development and supervision of a school's student activities program.

12.4(8) *Teacher.* A teacher is defined as a member of the instructional professional staff who holds a license/certificate endorsed for the type of position in which employed. A teacher diagnoses, prescribes, evaluates, and directs student learnings in terms of the school's objectives, either singly or in concert with other professional staff members; shares responsibility with the total professional staff for developing educational procedures and student activities to be used in achieving the school's objectives; supervises educational aides who assist in serving students for whom the teacher is responsible; and evaluates or assesses student progress during and following instruction in terms of the objectives sought, and uses this information to develop further educational procedures.

12.4(9) *Educational assistant.* An educational assistant is defined as an employee who, in the presence or absence of an instructional professional staff member but under the direction, supervision, and control of the instructional professional staff, supervises students or assists in providing instructional and other direct educational services to students and their families. An educational assistant shall not substitute for or replace the functions and duties of a teacher as established in subrule 12.4(8).

During the initial year of employment, an educational assistant will complete staff development approved by the board as provided in subrule 12.7(1).

12.4(10) *Record of license/certificate or statement of professional recognition.* The board shall require each administrator, teacher, support service staff member, and noninstructional professional staff member on its staff to supply evidence that each holds a license/certificate or statement of professional recognition that is in force and valid for the type of position in which the individual is employed.

12.4(11) *Record required regarding teacher and administrative assignments.* The board shall require its superintendent or other designated administrator to maintain a file for all regularly employed members of the instructional professional staff, including substitute teachers. The file will consist of official licenses/certificates or copies thereof for all members of the instructional professional staff, including substitute teachers, showing that they are eligible for the position in which employed. The official will also maintain on file an official license/certificate or statement of professional recognition as defined in subrule 12.4(2) for each member of the noninstructional professional staff. These records will be on file at the beginning of and throughout each school year and updated annually to reflect all professional growth.

On December 1 of each year, the official will verify to the department the licensure/certification and endorsement status of each member of the instructional and administrative staff. This report will be on forms provided by the department and identify all persons holding authorizations and their specific assignment(s) with the authorization(s).

12.4(12) *Nurses.* The board of each school district shall employ a school nurse and require a current license to be filed with the superintendent or other designated administrator as specified in subrule 12.4(10).

12.4(13) *Prekindergarten staff.* Prekindergarten teachers shall hold a license/certificate valid for the prekindergarten level. The board will employ personnel as necessary to provide effective supervision and instruction in the prekindergarten program as referenced in Iowa Code sections 256.11(1) and 256.11(2).

12.4(14) *Support staff.* The board shall develop and implement procedures for the use of educational support staff to augment classroom instruction and to meet individual student needs. These staff members may be employed by the board or by the area education agency.

12.4(15) *Volunteer.* A volunteer is defined as an individual who, without compensation or remuneration, provides a supportive role and performs tasks under the direction, supervision, and control of the school or school district staff. A volunteer shall not work as a substitute for or replace the functions and duties of a teacher as established in subrule 12.4(8).

[**ARC 7787C**, IAB 4/17/24, effective 5/22/24]

281—12.5(256) Education program. The following education program standards shall be met by schools and school districts for accreditation:

12.5(1) *Prekindergarten program.* Iowa Code section 256.11(1) is incorporated by this reference.

12.5(2) *Kindergarten program.* Iowa Code section 256.11(2) is incorporated by this reference. Any classroom serving students at least five years of age by September 15 is considered kindergarten.

12.5(3) *Elementary program, grades 1 through 6.* Iowa Code section 256.11(3) is incorporated by this reference. All content areas may be taught by the general education teacher in the teacher's own classroom. In implementing the elementary program standards, the following general curriculum definitions apply. It is locally determined how to incorporate these content specifications into relevant standards and benchmarks.

a. English-language arts. English-language arts are as referenced in Iowa Code sections 256.7(28) and 256.9(49)*"a."*

b. Social studies. Social studies are as referenced in Iowa Code section 256.7(26)*"a"*(3).

c. Mathematics. Mathematics instruction is as referenced in Iowa Code section 256.7(28).

d. Science. Science instruction is as referenced in Iowa Code section 256.7(28).

e. Health. Health instruction is as referenced in Iowa Code sections 256.7(26)*"a"*(3) and 279.50.

f. Physical education. Physical education instruction will include movement experiences and body mechanics; fitness activities; rhythmic activities; stunts and tumbling; simple games and relays; sports skills and activities; and water safety.

g. Traffic safety. Traffic safety instruction will include pedestrian safety; bicycle safety; auto passenger safety; school bus passenger safety; seat belt use; substance education; and the application of legal responsibility and risk management to these concepts.

h. Music. Music instruction will include skills, knowledge, and attitudes and will include singing and playing music; listening to and using music; reading and writing music; recognizing the value of the world's musical heritage; respecting individual musical aspirations and values; and preparing for consuming, performing, or composing.

i. Visual art. Visual art instruction will include perceiving, comprehending, and evaluating the visual world; viewing and understanding the visual arts; developing and communicating imaginative and inventive ideas; and making art.

j. Computer science. Computer science instruction incorporating the standards established under Iowa Code sections 256.7(26)*"a"*(4) and 256.9(61) is to be offered in at least one grade level.

12.5(4) *Grades 7 and 8.* The following will be taught in grades 7 and 8 pursuant to Iowa Code section 256.11(4). If grade 6 is configured with grades 7 and 8, the grade 7 and 8 requirements apply. It is a local decision whether all students are required to take visual arts or music. In implementing the grade 7 and 8 program standards, the following general curriculum definitions apply. It is locally determined how to incorporate the content specifications into relevant standards and benchmarks.

a. English-language arts. English-language arts instruction is as referenced in Iowa Code section 256.7(28).

b. Social studies. Social studies are as referenced in Iowa Code section 256.7(26)*"a"*(3).

c. Mathematics. Mathematics instruction is as referenced in Iowa Code section 256.7(28).

d. Science. Science instruction is as referenced in Iowa Code section 256.7(28).

e. Health. Health instruction is as referenced in Iowa Code sections 256.7(26)*"a"*(3) and 279.50.

f. Physical education. Physical education will include the physical fitness activities that increase cardiovascular endurance, muscular strength, and flexibility; sports and games; tumbling and gymnastics; rhythms and dance; water safety; and leisure and lifetime activities.

g. Music. Paragraph 12.5(3)*"h"* applies, with the addition of using music as an avocation or vocation.

h. Visual art. Paragraph 12.5(3)*"i"* applies, with the addition of using visual arts as an avocation or vocation.

i. Career education. Career education instruction will include exploration of employment opportunities, experiences in career decision making, and experiences to help students integrate work values and work skills into their lives. This paragraph does not apply to nonpublic schools. However, nonpublic schools will comply with subrule 12.5(7).

j. Computer science. Computer science instruction incorporating the standards established under Iowa Code section 256.7(26)*"a"*(4) will be offered in at least one grade level.

k. Secondary credit. Secondary credit will be awarded as referenced in Iowa Code section 256.7(26)*"a"*(1).

12.5(5) *High school program, grades 9 through 12.* In grades 9 through 12, a unit is a course or equivalent related components or partial units taught throughout the academic year as defined in subrule 12.5(13). The following will be offered and taught as the minimum program as referenced in Iowa Code section 256.11(5). All students in schools and school districts shall satisfactorily complete requirements as referenced in Iowa Code sections 256.7(26), 256.11(5)*"b"* and *"g,"* and 256.11(6)*"c"* in order to graduate. It is locally determined how to incorporate the content specifications into relevant standards and benchmarks.

In implementing the high school program standards, the following curriculum standards apply:

a. English-language arts (six units). English-language arts instruction is as referenced in Iowa Code section 256.7(28).

b. Social studies (five units). Social studies is as referenced in Iowa Code sections 256.7(26)*"a"*(3), 256.11(5)*"b,"* and 280.9A.

c. Mathematics (six units). Mathematics instruction is as referenced in Iowa Code sections 256.7(28) and 256.11(5)*"d"* through *"e,"* including:

(1) Four sequential units that are preparatory to postsecondary educational programs.

(2) Two additional units.

d. Science (five units). Science instruction is as referenced in Iowa Code sections 256.7(28) and 256.11(5)*"a."*

e. Health (one unit). Health instruction is as referenced in Iowa Code sections 256.7(26)*"a"*(3), 256.11(5)*"j,"* and 279.50.

f. Physical education (one unit). Physical education, as well as any exemption or excusal, is as referenced in Iowa Code sections 256.11(5)*"g"* and 256.11(18).

g. Fine arts (two units). Fine arts instruction will include at least two of the following:

(1) Dance. Dance instruction encompasses developing basic movement skills, elementary movement concepts, study of dance forms and dance heritage, participating in dance, evaluating dance as a creative art, and using dance as an avocation or vocation.

(2) Music. Music instruction include skills, knowledge, and attitudes and the singing and playing of music; listening to and using music; reading and writing music; recognizing the value of the world's musical heritage; respecting individual musical aspirations and values; preparing for consuming, performing, or composing; and using music as an avocation or vocation.

(3) Theatre. Theatre instruction encompasses developing the internal and external resources used in the theatre process; creating theatre through artistic collaboration; relating theatre to its social context; forming aesthetic judgments; and using theatre as an avocation or vocation.

(4) Visual art. Visual art instruction includes developing concepts and values about natural and created environments; critiquing works of art; evaluating relationships between art and societies; analyzing, abstracting, and synthesizing visual forms to express ideas; making art; and using visual art as an avocation or vocation.

h. World language (two units). The world language program will be a two-unit sequence of uninterrupted study in at least one language, which may include American Sign Language.

i. Career and technical education service areas—school districts (three units each in at least four of the six service areas). A minimum of three sequential units, of which only one may be a core unit, will be taught in four of the six service areas as referenced by Iowa Code section 256.11(5)*"h"*; Iowa Code chapter 256, subchapter VII, part 2; and 281—Chapter 46.

j. Vocational education/nonpublic schools (five units). A nonpublic school that provides an educational program that includes grades 9 through 12 will comply with Iowa Code section 256.11B.

k. Personal finance literacy (one-half unit). Iowa Code section 256.11(5)*"k"* is incorporated by this reference.

l. Computer science (one-half unit). Iowa Code section 256.7(26)*"a"*(4) is incorporated by this reference.

12.5(6) *Exemption from physical education course, health course, physical activity, or cardiopulmonary resuscitation course completion.* Exemptions from these activities are governed by Iowa Code section 256.11(5)*"g"* and 256.11(6).

12.5(7) *Career education.* Iowa Code sections 256.9(42), 279.61, and 280.9 are incorporated by this reference.

12.5(8) *Age-appropriate, multicultural and gender-fair approaches to the educational program.* Iowa Code section 256.11's provisions for an age-appropriate, multicultural, and gender-fair program are incorporated by this reference.

12.5(9) *Special education.* The board of each school district shall provide special education programs and services for its resident children that comply with rules of the state board of education implementing Iowa Code chapters 256, 256B, 273, and 280.

12.5(10) *Global education.* Iowa Code section 256.11's provisions for a global education are incorporated by this reference.

12.5(11) *Provisions for gifted and talented students.* Iowa Code sections 257.42 through 257.49 are incorporated by this reference.

12.5(12) *Provisions for at-risk students.* Iowa Code sections 280.19 and 280.19A are incorporated by this reference.

12.5(13) *Unit.* A unit is a course that meets one of the following criteria: it is taught for at least 200 minutes per week for 36 weeks; it is taught for the equivalent of 120 hours of instruction; it requires the demonstration of proficiency of formal competencies associated with the course according to the State Guidelines for Competency-Based Education or its successor organization, as effective on February 7, 2024; or it is an equated requirement as a part of a flexible student and school support program filed as prescribed in rule 281—12.9(256). A fractional unit will be calculated in a manner consistent with this

subrule. Unless the method of instruction is competency-based, multiple-section courses taught at the same time in a single classroom situation by one teacher do not meet this unit definition for the assignment of a unit of credit, unless otherwise provided by Iowa Code section 256.11.

12.5(14) *Credit.* A student shall receive a credit or a partial credit upon successful completion of a course that meets one of the criteria in subrule 12.5(13). The board may award high school credit to a student who demonstrates required competencies for a course or content area in accordance with assessment methods approved by the local board.

12.5(15) *Subject offering.* Except as provided for under subrule 12.5(20), a subject is regarded as offered when the teacher of the subject has met the licensure and endorsement standards of the state board of educational examiners for that subject; instructional materials and facilities for that subject have been provided; and students have been informed, based on their aptitudes, interests, and abilities, about possible value of the subject. A subject is regarded as taught only when students are instructed in it in accordance with all applicable requirements outlined herein. Subjects that the law requires schools and school districts to offer and teach shall be made available during the school day as defined in subrules 12.1(8) to 12.1(10).

12.5(16) *Twenty-first century learning skills.* Twenty-first century learning skills are as referenced in Iowa Code section 256.7(26)*"a"*(3).

12.5(17) *Early intervention program.* Iowa Code section 279.50(8) is incorporated by this reference.

12.5(18) *Physical activity.*

a. Iowa Code sections 256.11(6) and 256.11(18) are incorporated by this reference. In no event may a school or school district reduce the regular instructional time, as defined by "unit" in subrule 12.5(13), for any pupil to enable the pupil to meet the physical activity requirement. However, this requirement may be met by physical education classes, activities at recess or during class time, and before- or after-school activities.

b. Schools and school districts must provide documentation that pupils are being provided with the support to complete the physical activity requirement. This documentation may be provided through printed schedules, district policies, student handbooks, and similar means.

12.5(19) *Cardiopulmonary resuscitation course completion.* Cardiopulmonary resuscitation course completion requirements are as referenced in Iowa Code section 256.11(6).

12.5(20) *Contracted courses used to meet school or school district requirements.* Contracted courses used to meet school or school district requirements are as referenced in Iowa Code section 279.50A.

[**ARC 7787C**, IAB 4/17/24, effective 5/22/24; **ARC 8240C**, IAB 10/2/24, effective 11/6/24]

281—12.6(256) Activity program. The following standards apply to the activity program of accredited schools and school districts.

12.6(1) *General guidelines.* Each board will sponsor a pupil activity program sufficiently broad and balanced to offer opportunities for all pupils to participate. The program will be supervised by qualified professional staff and designed to meet the needs and interests and challenge the abilities of all pupils consistent with their individual stages of development; contribute to the physical, mental, athletic, civic, social, moral, and emotional growth of all pupils; offer opportunities for both individual and group activities; be integrated with the instructional program; and provide balance so a limited number of activities will not be perpetuated at the expense of others.

12.6(2) *Supervised intramural sports.* If the board sponsors a voluntary program of supervised intramural sports for pupils in grades 7 through 12, qualified personnel and adequate facilities, equipment, and supplies will be provided. Middle school grades below grade 7 may also participate.

[**ARC 7787C**, IAB 4/17/24, effective 5/22/24]

281—12.7(256,284,284A) Professional development.

12.7(1) The standards set forth in the following Iowa Code sections apply to staff development for accredited schools and school districts: Iowa Code sections 256.7(3), 256.7(25), 256.9(47), 256.9(49), and 256.9(62) and chapter 284.

12.7(2) To meet the professional needs of all staff, professional development activities will align with district goals; will be based on student and staff information; will prepare all employees to work effectively with diverse learners and to implement age-appropriate, multicultural, gender-fair approaches to the

educational program; and will adhere to the professional development standards in 281—paragraph 83.6(2)*"b"* to realize increased student achievement, learning, and performance.
[**ARC 7787C**, IAB 4/17/24, effective 5/22/24]

281—12.8(256) Accountability for student achievement. Schools and school districts shall meet the following accountability provisions for increased student achievement. Area education agencies will provide technical assistance as required by 281—subrule 72.4(7).

12.8(1) *School improvement advisory committee.* Each school and school district will establish a school improvement advisory committee that is governed by Iowa Code section 280.12.

a. Community involvement.

(1) Local community. The school or school district will involve the local community in decision-making processes as appropriate. The school or school district will seek input from the local community about, but not limited to, the following elements at least once every five years:

1. Statement of philosophy, beliefs, mission, or vision;
2. Major educational needs; and
3. Student learning goals.

(2) School improvement advisory committee. To meet provisions of Iowa Code section 280.12(2), the board will appoint and charge a school improvement advisory committee to make recommendations to the board. Based on the committee members' analysis of the needs assessment data, the committee will make recommendations to the board about the following components:

1. Major educational needs;
2. Student learning goals;
3. Long-range goals that include, but are not limited to, the state indicators that address reading, mathematics, and science achievement; and
4. Harassment or bullying prevention goals, programs, training, and other initiatives.

(3) At least annually, the school improvement advisory committee will also make recommendations to the board with regard to, but not limited to, the following:

1. Progress achieved with the annual improvement goals for the state indicators that address reading, mathematics, and science in subrule 12.8(3);
2. Progress achieved with other locally determined core indicators; and
3. Annual improvement goals for the state indicators that address reading, mathematics, and science achievement.

b. Data collection, analysis, and goal setting.

(1) Policy. The board will adopt a policy for conducting ongoing and long-range needs assessment processes. This policy will ensure involvement of and communication with the local community regarding its expectations for adequate preparation for all students as responsible citizens and successful wage earners. The policy will include provisions for keeping the local community regularly informed of progress on state indicators as described in subrule 12.8(3), other locally determined indicators and the methods a school district will use to inform kindergarten through grade 3 parents of their individual child's performance biannually. The policy will describe how the school or school district will provide opportunities for local community feedback on an ongoing basis.

(2) Long-range data collection and analysis. The long-range needs assessment process is to include provisions for collecting, analyzing, and reporting information derived from local, state, and national sources. The process will include provisions for reviewing information acquired over time on the following:

1. State indicators and other locally determined indicators;
2. Locally established student learning goals; and
3. Specific data collection required by federal and state programs.

Schools and school districts are to also collect information about additional factors influencing student achievement that may include, but are not limited to, demographics, attitudes, health, and other risk factors.

(3) Long-range goals. The board, with input from its school improvement advisory committee, will adopt long-range goals to improve student achievement in at least the areas of reading, mathematics, and science.

(4) Annual data collection and analysis. The ongoing needs assessment process will include provisions for collecting and analyzing annual assessment data on the state indicators, other locally determined indicators, and locally established student learning goals.

(5) Annual improvement goals. The board, with input from its school improvement advisory committee, will adopt annual improvement goals based on data from at least one districtwide assessment. The goals will describe desired annual increase in the curriculum areas of, but not limited to, mathematics, reading, and science achievement for all students, for particular subgroups of students, or both. Annual improvement goals may be set for the early intervention program as described in subrule 12.5(18), other state indicators, locally determined indicators, locally established student learning goals, other curriculum areas, future student employability, or factors influencing student achievement.

c. Content standards and benchmarks.

(1) Policy. The board will adopt a policy outlining its procedures for developing, implementing, and evaluating its total curriculum. The policy will describe a process for establishing content standards, benchmarks, performance levels, and annual improvement goals aligned with needs assessment information.

(2) Content standards and benchmarks. The board will adopt clear, rigorous, and challenging content standards and benchmarks in reading, mathematics, and science to guide the learning of students from the date of school entrance until high school graduation. Included in the local standards and benchmarks are the core content standards from Iowa's approved standards and assessment system under the applicable provisions of the federal Elementary and Secondary Education Act, as effective on February 7, 2024. Standards and benchmarks may be adopted for other curriculum areas defined in rule 281—12.5(256).

d. Determination and implementation of actions to meet the needs. The school or school district will specify actions it will take in order to accomplish its long-range and annual improvement goals as established in Iowa Code section 280.12(1)*"b."*

(1) Actions will include addressing the improvement of curricular and instructional practices to attain the long-range goals, annual improvement goals, and the early intervention goals as described in subrule 12.5(18).

(2) A school or school district will document consolidation of state and federal resources and requirements. State and federal resources will be used, as applicable, to support implementation of the plan.

(3) A school or school district may have building-level action plans.

e. Evaluation of plan. A school or school district will develop strategies to collect data and information to determine if it is accomplishing the goals it set.

f. Assessment of student progress. Each school or school district will provide for districtwide assessment of student progress for all students. It will identify valid and reliable student assessments aligned with local content standards, which include the core content standards referenced in subparagraph 12.8(1)*"c"*(2). These assessments are not limited to commercially developed measures. School districts receiving early intervention funding described in subrule 12.5(18) will provide for diagnostic reading assessments for kindergarten through grade 3 students.

(1) State indicators. Using at least one districtwide assessment, a school or school district will assess student progress on the state indicators in reading, mathematics, and science as specified in subrule 12.8(3). At least one districtwide assessment will allow for the comparison of the school or school district's students with students from across the state and in the nation in reading, mathematics, and science.

(2) Performance levels. A school or school district will establish at least three performance levels on at least one districtwide valid and reliable assessment in the areas of reading and mathematics for at least grades 4, 8, and 11 and science in grades 8 and 10 or use the achievement levels as established by the Iowa testing program to meet the intent of this subparagraph.

g. Assurances and support. A school or school district will provide evidence that its board has approved and supports the actions under this rule. This assurance includes the commitment for ongoing improvement of the educational system.

h. Statewide summative assessment.

(1) For purposes of this chapter, the statewide summative assessment of student progress administered by school districts for purposes of the core academic indicators is the summative assessment developed by

the Iowa testing program within the University of Iowa college of education and administered by the Iowa testing program's designee. The department may require the Iowa testing program to enter into agreements with such designee to ensure the department is able to comply with Iowa Code chapter 256; this chapter; the provisions of the federal Every Student Succeeds Act, Pub. L. No. 114-95; the provisions of the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g; and any other applicable state or federal law.

(2) For the school year beginning July 1, 2018, and each succeeding school year, the statewide summative assessment referred in this paragraph is to meet all of the following provisions:

1. All students enrolled in school districts in grades 3 through 11 will be administered an assessment in mathematics and English language arts, including reading and writing, during the last quarter of the school year, and all students enrolled in school districts in grades 5, 8, and 10 will be administered an assessment in science during the last quarter of the school year.

2. The assessment, at a minimum, will assess the core academic indicators identified in Iowa Code section 256.7(21)*"b"*; be aligned with the Iowa common core standards in both content and rigor; accurately describe student achievement and growth for purposes of the school, the school district, and state accountability systems; provide valid, reliable, and fair measures of student progress toward college or career readiness; and meet the summative assessment provisions of the federal Every Student Succeeds Act, Pub. L. No. 114-95.

3. The assessment will be available for administration in both paper-and-pencil and computer-based formats and include assessments in mathematics, science, and English language arts, including reading and writing.

4. The assessment will be peer-reviewed by an independent third-party evaluator to determine that the assessment is aligned with the Iowa core academic standards, provides a measurement of student growth and student proficiency, and meets the summative assessment provisions of the federal Every Student Succeeds Act, Pub. L. No. 114-95. The assessment developed by the Iowa testing service within the University of Iowa college of education will make any necessary adjustments as determined by the peer review to meet the provisions of this paragraph.

5. The costs of complying with this paragraph will be borne by the Iowa testing program within the University of Iowa college of education.

12.8(2) *Annual reporting.* A school or school district will, at minimum, report annually to its local community about the progress on the state indicators and other locally determined indicators.

a. State indicators. A school or school district will collect data on the following indicators for reporting purposes:

(1) The percentage of all fourth, eighth, and eleventh grade students achieving proficient or higher reading status using at least three achievement levels and by gender, race, socioeconomic status, students with disabilities, and other subgroups as required by state or federal law.

(2) The percentage of all fourth, eighth, and eleventh grade students achieving proficient or higher mathematics status using at least three achievement levels and for gender, race, socioeconomic status, students with disabilities, and other subgroups as required by state or federal law.

(3) The percentage of all eighth and tenth grade students achieving proficient or higher science status using at least three achievement levels.

(4) The percentage of students considered as dropouts for grades 7 to 12 by gender, race, students with disabilities, and other subgroups as required by state or federal law.

(5) The percentage of high school seniors who intend to pursue postsecondary education/training.

(6) The percentage of high school students achieving a score or status on a measure indicating probable postsecondary success. This measure should be the measure used by the majority of students in the school, school district, or attendance center who plan to attend a postsecondary institution.

(7) The percentage of high school graduates who complete a core program of four years of English-language arts and three or more years each of mathematics, science, and social studies.

b. Annual progress report. Each school or school district will submit an annual progress report to its local community, its respective area education agency, and the department. That report will be submitted to the department by September 15 of each year. The report will include the following information:

(1) Baseline data on at least one districtwide assessment for the state indicators described in subrule 12.8(3). Every year thereafter the school or school district will compare the annual data collected with the baseline data. A school or school district is not to report to the community about subgroup assessment results when a subgroup contains fewer than ten students at a grade level. A school or school district will report districtwide assessment results for all enrolled and tuitioned-in students.

(2) Locally determined performance levels for at least one districtwide assessment in, at a minimum, the areas of reading, mathematics, and science. Student achievement levels as defined by the Iowa Testing Program may be used to fulfill this provision.

(3) Long-range goals to improve student achievement in the areas of, but not limited to, reading, mathematics, and science.

(4) Annual improvement goals based on at least one districtwide assessment in, at a minimum, the areas of reading, mathematics, and science. One annual improvement goal may address all areas, or individual annual improvement goals for each area may be identified. When a school or school district does not meet its annual improvement goals for one year, it shall include in its annual progress report the actions it will take to meet annual improvement goals for the next school year.

(5) Data on multiple assessments for reporting achievement for all students in the areas of reading, mathematics, and science.

(6) Results by individual attendance centers, as appropriate, on the state indicators as stated in subrule 12.8(3) and any other locally determined factors or indicators. An attendance center, for reporting purposes, is a building that houses students in grade 4 or grade 8 or grade 11.

(7) School districts are encouraged to provide information on the reading proficiency of kindergarten through grade 3 students by grade level. However, all school districts receiving early intervention block grant funds will report to the department the progress toward achieving their early intervention goals.

(8) Other reports of progress as the director of the department requires and other reporting requirements as the result of federal and state program consolidation.

12.8(3) *Accreditation, monitoring, and enforcement.* Accreditation, monitoring, and enforcement is as referenced in Iowa Code section 256.11(10) and 256.11(11).

[**ARC 7787C**, IAB 4/17/24, effective 5/22/24; **ARC 8240C**, IAB 10/2/24, effective 11/6/24]

281—12.9(256) Flexible student and school support program.

12.9(1) *General.* The flexible student and school support program is as referenced by Iowa Code section 256.11(8). Applications are due to the department on May 31 prior to the school year the application will be implemented. Each school district or nonpublic school approved to participate in the flexible student and school support program will file an annual report with the department on the status of the program in a format prescribed by the department by May 31. Participation in the flexible student and school support program may be renewed for additional periods of years, each not to exceed three years. The director may revoke approval of all or part of any application or approved education program if the annual report or any other information available to the department indicates that conditions no longer warrant use of an exemption or funding from the school district's flexibility account under Iowa Code section 298A.2(2). Notice of revocation must be provided by the director to the school district or nonpublic school prior to the beginning of the school year for which participation is revoked.

12.9(2) *Annual report to the department.* Each school district or nonpublic school approved to participate in the flexible student and school support program will file an annual report with the department on the status of the program in a format prescribed by the department by May 31.

[**ARC 7787C**, IAB 4/17/24, effective 5/22/24]

281—12.10(256) Independent accrediting agencies. Notwithstanding Iowa Code section 256.11(1) through 256.11(12) and this chapter, a nonpublic school may be accredited by an independent accrediting agency that appears on a list maintained by the state board of education instead of being accredited by the state board.

12.10(1) *Compliance required by a nonpublic school.* Iowa Code section 256.11(16) is incorporated by this reference. New accrediting agencies must apply by November 1. New schools shall notify the department by April 1 if they wish to be included in the independently accredited list for the following

school year. Each year the department will contact the approved accrediting agencies requesting an updated list of the schools that are accredited or in the accrediting process for the upcoming school year. This list is due to the department by April 1. A nonpublic school that participates in the accreditation process offered by an independent accrediting agency on the approved list published pursuant to this rule is deemed to meet the education standards of Iowa Code section 256.11 and this chapter. However, such a school shall comply with statutory health and safety requirements for school facilities. A nonpublic school accredited under this chapter shall abide by all state and federal laws and regulations. Notwithstanding Iowa Code section 256.11, the department is not precluded from enforcing compliance with all state and federal laws and regulations.

12.10(2) *List maintained by state board.* The state board will maintain a list of approved independent accrediting agencies comprised of at least six regional or national nonprofit, nongovernmental agencies recognized as reliable authorities concerning the quality of education offered by a school and shall publish the list of independent accrediting agencies on the department's Internet site. The list will include accrediting agencies that, as of January 1, 2013, accredited a nonpublic school in this state that was concurrently accredited under this rule and include any agency that has a formalized partnership agreement with another agency on the list and has member schools in this state as of January 1, 2013. Agencies that met this standard as of November 20, 2013, are the Independent Schools Association of the Central States (ISACS), Christian Schools International (CSI), Cognia, the National Lutheran Schools Association (NLSA), and the Association of Christian Schools International (ASCI).

12.10(3) *Criteria for recognizing an agency as a "reliable authority concerning the quality of education offered by a school."* In any decision to add an agency to the list maintained pursuant to subrule 12.10(1) or to remove an agency from the list pursuant to subrule 12.10(2), the following criteria may be applied:

a. Whether the agency's accreditation standards require a school to set high academic and nonacademic standards for all students, including preparation of students for postsecondary success.

b. Whether the agency's accreditation standards require a school to monitor and assess all students' progress toward high academic and nonacademic standards.

c. Whether the agency's accreditation standards require a school to recruit and retain properly licensed quality professional staff, and provide those staff members with ongoing professional development.

d. Whether the agency's accreditation standards set requirements for fiscal, data, and contract management.

e. Whether the agency monitors compliance with its standards and takes appropriate corrective action when standards are not met.

f. Whether the agency itself has appropriate fiscal, data, and contract management policies and procedures.

g. Any uncorrected citation of noncompliance by any governmental or nongovernmental agency or organization with jurisdiction or oversight of an accrediting agency listed pursuant to subrule 12.10(1).

h. Any uncorrected negative audit finding of an accrediting agency listed pursuant to subrule 12.10(1).

i. Any judgments, orders, decrees, consent decrees, settlement agreements, or verdicts concerning the agency listed pursuant to subrule 12.10(1) entered by any state or federal court of competent jurisdiction.

j. Whether the agency listed pursuant to subrule 12.10(1) continues to retain its nonprofit status.

k. Whether the agency listed pursuant to subrule 12.10(1) has received any form of recognition for innovation or excellence concerning its work.

l. Any other criterion used by the agency to determine accreditation.

m. Any other reports or findings sent to the nonpublic school regarding accreditation, including findings related to Iowa Code section 256.11.

12.10(4) *Removal of agency from approved independent accrediting agencies.* If the state board takes preliminary action to remove an agency from the approved list published on the department's Internet site pursuant to subrule 12.10(1), the department will, at least one year prior to removing the agency from the

approved list, notify the nonpublic schools participating in the accreditation process offered by the agency of the state board's intent to remove the accrediting agency from its approved list of independent accrediting agencies. The department will give notice to the independent accrediting agency, along with an opportunity to respond. The notice will also be posted on the department's Internet site and contain the proposed date of removal. If a nonpublic school receives notice pursuant to this subrule and it chooses to remain accredited, the nonpublic school is to attain accreditation under this rule or otherwise attain accreditation in a manner provided by this chapter or Iowa Code section 256.11, not later than one year following the date on which the state board removes the agency from its list of independent accrediting agencies.

12.10(5) *Rule of construction: "at least six."* The obligation to maintain a list of at least six agencies in subrule 12.10(1) will not be construed to require the list to contain an agency that is not a regional or national nonprofit, nongovernmental agency recognized as a reliable authority concerning the quality of education offered by a school.

12.10(6) *Adoption by the department of standard procedures.* The department will adopt standard procedures, schedules, and forms for the implementation of this rule, including procedures for adding independent accrediting agencies from the list maintained by the state board pursuant to subrule 12.10(1) and removing agencies from that list pursuant to subrule 12.10(4).

[**ARC 7787C**, IAB 4/17/24, effective 5/22/24]

281—12.11(256) High-quality standards for computer science. Iowa Code sections 256.7(26) and 256.9(61) are incorporated by this reference. A computer science professional development incentive fund is established in the state treasury under the control of the department. The department may accept gifts, grants, bequests, and other private contributions, as well as state or federal moneys, for deposit in the fund. The department may disburse moneys contained in the fund for professional development activities or tuition reimbursement. Notwithstanding Iowa Code section 8.33, moneys in the computer science professional development incentive fund that remain unencumbered or unobligated at the close of the fiscal year will not revert but remain available for expenditure for the purposes designated until the close of the succeeding fiscal year. The department may disburse those moneys in the following ways:

1. A school district or accredited nonpublic school, or a collaborative of one or more school districts, accredited nonpublic schools, and area education agencies, may apply to the department, in the manner prescribed by the department, to receive moneys from the fund to provide proven professional development activities for Iowa teachers in the area of computer science education.

2. A school district or accredited nonpublic school may apply to the department, in the manner prescribed by the department, to receive moneys from the fund to provide tuition reimbursement for Iowa teachers seeking endorsements or authorizations for computer science under Iowa Code section 256.146(19).

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These rules are intended to implement Iowa Code sections 256.11, 280.23, and 256.7(21).

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◊ Two or more ARCs

1 Effective date of Chapter 4 delayed 70 days by Administrative Rules Review Committee at its meeting held April 20, 1988.

2 March 28, 2012, effective date of 12.3(3), 12.4(6), 12.4(14), 12.5(4)*"l,"* and 12.5(17) delayed 30 days by the Administrative Rules Review Committee at its meeting held March 12, 2012.

3 January 13, 2016, effective date of ARC 2312C [12.8(1)*"h"*] delayed until the adjournment of the 2016 General Assembly by the Administrative Rules Review Committee at its meeting held January 8, 2016.

CHAPTER 13
INTER-DISTRICT SHARING
Reserved

CHAPTER 14
SCHOOL HEALTH SERVICES

Chapter rescission date pursuant to Iowa Code section 17A.7: 5/22/29

DIVISION I
IN GENERAL

281—14.1(256) Medication administration. Each school district, area education agency, and school shall establish medication administration policy and procedures, which include the following:

14.1(1) A statement on administration of prescription and nonprescription medication.

14.1(2) A statement on an individual health plan pursuant to rule 281—14.2(256) when administration requires ongoing professional health judgment.

14.1(3) A statement that authorized persons administering medication include licensed health personnel working under the auspices of the school, such as licensed registered nurses, physicians, physician assistants, and persons to whom authorized practitioners have delegated the administration of prescription and nonprescription drugs (who have successfully completed a medication administration course). Individuals who have demonstrated competency in administering their own medications may self-administer their medication. Individuals may self-administer asthma or other airway constricting disease medication, use a bronchodilator canister or bronchodilator canister and spacer, or possess and have use of an epinephrine auto-injector with parent and physician (or physician assistant) consent on file for each school year, without the necessity of demonstrating competency to self-administer these medications. If a student misuses this privilege, it may be withdrawn. For purposes of this chapter, "self-administration" and "medication" mean the same as defined in Iowa Code section 280.16(1).

14.1(4) A provision for a medication administration course provided by the department that is completed every five years with an annual medication administration procedural skills check completed with licensed health personnel. Licensed health personnel working under the auspices of the school who delegate medication administration within their scope of practice will conduct the course. A record of course completion will be maintained by the school.

14.1(5) A provision that the individual's parent provide a signed and dated written statement requesting medication administration at school.

14.1(6) A statement that medication will be in the original labeled container either as dispensed or in the manufacturer's container.

14.1(7) A provision that a written medication administration record is to be on file at the school and include:

a. Date.

b. Individual's name.

c. Prescriber or person authorizing administration.

d. Medication name and purpose, including the use of a bronchodilator canister or a bronchodilator canister and spacer or the use of an epinephrine auto-injector.

e. Medication dosage.

f. Administration time.

g. Administration method.

h. Signature and title of the person administering medication.

i. Any unusual circumstances, actions or omissions.

14.1(8) A statement that medication shall be stored in a secured area unless an alternate provision is documented.

14.1(9) A provision for a written statement by the individual's parent or guardian requesting the individual's co-administration of medication, when competency is demonstrated.

14.1(10) A provision for emergency protocols for medication-related reactions.

14.1(11) A statement regarding confidentiality of information.

[**ARC 7788C**, IAB 4/17/24, effective 5/22/24]

281—14.2(256) Special health services. Some individuals need special health services to participate in an educational program. These individuals will receive special health services along with their educational program.

14.2(1) *Definitions.* The following definitions are used in this rule, unless the context otherwise demands:

"Assignment and delegation." "Assignment" means the routine health care, activities and health procedures that are within the licensed health personnel's authorized scope of practice as defined by state law. "Delegation" means the process within the licensed health personnel's scope of practice in transferring a task, skill, or procedure of the licensed health personnel to qualified designated personnel. Primary consideration is given to the recommendation of the licensed health personnel and health instruction competence of the delegate is documented to perform a specific activity, skill, or procedure that is beyond the qualified personnel's traditional role and not routinely performed.

"Co-administration" means the eligible individual's participation in the planning, management and implementation of the individual's special health service and demonstration of proficiency to licensed health personnel.

"Educational program" includes all school curricular programs and activities both on and off school grounds.

"Education team" may include the individual, the individual's parent, administrator, teacher, licensed health personnel, and others involved in the individual's educational program. The education team may be the team under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973, both effective as of February 7, 2024, if the child is eligible under either of those statutes.

"Health assessment" means the systematic collection of data collected by the licensed health personnel to determine the student's health status and initial plan of care, to identify any actual or potential health problems, or upon any significant change in the student's status relating to the individual's education program.

"Health instruction" means education by licensed health personnel to prepare qualified designated personnel to deliver and perform special health services contained in the eligible individual's health plan. Documentation of education and periodic updates will be on file at school.

"Individual health plan" means the documented plan of care utilizing the nursing process as defined in 655—Chapter 6 for evidence-based management of the student's ongoing special health service in the educational program. The school nurse may develop this plan in collaboration with the education team. The plan also includes a provision for emergencies to provide direction in managing an individual's health condition (stable or unstable). Documentation of evaluation and updates to the plan are completed as needed and at least annually.

"Licensed health personnel" means a licensed registered nurse, licensed physician, licensed physician assistant, or other licensed health personnel legally authorized to delegate or provide special health services and medications under the auspices of the school.

"Prescriber" means licensed health personnel legally authorized to prescribe special health services and medications.

"Qualified designated personnel" means individuals who perform delegated tasks, activities and procedures beyond their traditional role who are instructed, supervised, and competent in implementing the eligible individual's health plan or delegation of special health services.

"Special health services" includes services for eligible individuals whose health status (stable or unstable) necessitates:

1. Interpretation or intervention,
2. Administration of health procedures and health care, or
3. Use of a health device to compensate for the reduction or loss of a body function.

"Supervision" means the assessment, delegation, monitoring, and frequency of evaluation and documentation of special health services by licensed health personnel. Levels of supervision include situations in which:

1. Licensed health personnel are physically present.

2. Licensed health personnel are available at the same site.

3. Licensed health personnel are available on call.

14.2(2) *Special health services policy.* Each board of a public school or the authorities in charge of an accredited nonpublic school shall, in consultation with licensed health personnel, establish policy and guidelines for the provision of confidential special health services in conformity with this chapter. Such policy and guidelines will address the following:

a. Licensed health personnel provide special health services under the auspices of the school. Duties of the licensed health personnel include:

(1) Participating as a member of the education team.

(2) Providing the health assessment.

(3) Planning, implementing and evaluating the written individual health plan.

(4) Planning, implementing and evaluating special emergency health services.

(5) Serving as a liaison and encouraging participation and communication with health service agencies and individuals providing health care.

(6) Providing health consultation, counseling and instruction with the eligible individual, the individual's parent and the staff in cooperation and conjunction with the prescriber.

(7) Maintaining a record of special health services. The documentation includes the eligible individual's name, special health service, prescriber or person authorizing, date and time, signature and title of the person providing the special health service and any unusual circumstances in the provision of such services.

(8) Reporting unusual circumstances to the parent, school administration, and prescriber.

(9) Assigning and delegating to, instructing, providing technical assistance to and supervising qualified designated personnel.

(10) Updating knowledge and skills to meet special health service needs.

b. Prior to the provision of ongoing special health services, the following are to be on file:

(1) A written statement by the prescriber detailing the specific method and schedule of the special health service, when indicated.

(2) A written statement by the individual's parent requesting the provision of the ongoing special health service.

(3) A written individual health plan available in the health record and integrated into the IEP or 504 plan, if applicable, for ongoing health services and documentation of the education team meeting.

c. Licensed health personnel delegating health services, in collaboration with the education team, determine the special health services to be provided designated qualified personnel. The documented rationale will include the following:

(1) Analysis and interpretation of the special health service needs, health status stability, complexity of the service, predictability of the service outcome and risk of improperly performed service.

(2) Determination that the special health service, task, procedure or function is part of the person's job description.

(3) Determination of the assignment and delegation based on the scope of the licensed personnel's practice, the student's needs and the qualifications of school personnel performing health services.

(4) Review of the designated person's competency.

(5) Determination of initial and ongoing level of supervision, monitoring and evaluation required for safe, quality services.

d. Licensed health personnel supervise the delegated special health services, define the level of frequency of supervision and document the supervision.

e. Licensed health personnel instruct qualified designated personnel to deliver and perform delegated special health services. Documentation of instruction, written consent of personnel pursuant to Iowa Code section 280.23 and evaluations are to be on file at the school.

f. Parents provide the usual equipment, supplies, and necessary maintenance of the equipment, unless the school is required to provide the equipment, supplies, and maintenance under the Individuals with Disabilities Education Act, effective February 7, 2024, and 281—Chapter 41 or Section 504 of the Rehabilitation Act of 1973, effective February 7, 2024. The equipment will be stored in a secure area. The

individual health plan is to designate the responsibilities roles of the school, parents and others in the provision, supply, storage and maintenance of necessary equipment.

14.2(3) *Relationship between this rule and other laws and rules.* In complying with this rule, for children who are eligible under the Individuals with Disabilities Education Act, effective February 7, 2024, and 281—Chapter 41 or Section 504 of the Rehabilitation Act of 1973, effective February 7, 2024, the school health services is to comply with any additional or differing provisions of those laws based on a specific child's needs.

[**ARC 7788C**, IAB 4/17/24, effective 5/22/24]

281—14.3(256) School district and accredited nonpublic school stock epinephrine auto-injector, bronchodilator canister, or bronchodilator canister and spacer voluntary supply.

14.3(1) *Definitions.* For the purpose of this rule, the following definitions apply:

"Act" means 2015 Iowa Acts, Senate File 462, which amended Iowa Code section 280.16 and created Iowa Code section 280.16A.

"Bronchodilator" means the same as defined in Iowa Code section 280.16(1)*"a."*

"Bronchodilator canister" means the same as defined in Iowa Code section 280.16(1)*"b."*

"Department" means the department of education.

"Epinephrine auto-injector" means the same as defined in Iowa Code section 280.16(1)*"c."*

"Licensed health care professional" means the same as defined in Iowa Code section 280.16(1)*"d."*

"Medication administration course" means a course approved or provided by the department that includes safe storage of medication, handling of medication, general principles, procedural aspects, skills demonstration and documentation requirements of safe medication administration in schools.

"Medication error" means the failure to administer an epinephrine auto-injector to a student or individual by proper route, failure to administer the correct dosage, or failure to administer an epinephrine auto-injector, bronchodilator, or bronchodilator canister and spacer according to generally accepted standards of practice.

"Medication incident" means accidental injection of an epinephrine auto-injector into a digit of the authorized personnel administering the medication.

"Personnel authorized to administer epinephrine or a bronchodilator" means the same as defined in Iowa Code section 280.16A(1)*"e."*

"School building" means each attendance center within a school district or accredited nonpublic school where students or other individuals are present.

"School nurse" means the same as defined in Iowa Code section 280.16A(1)*"f."*

"Spacer" means the same as defined in Iowa Code section 280.16A(1)*"g."*

14.3(2) *Applicability.* This rule applies to and permits:

a. A licensed health care professional to prescribe a stock epinephrine auto-injector, a bronchodilator canister, or a bronchodilator canister and spacer in the name of a school district or accredited nonpublic school for use in accordance with the Act and this rule;

b. A pharmacist to dispense a stock supply pursuant to paragraph 14.3(2)*"a"*; and

c. A school district or accredited nonpublic school to acquire and maintain a stock supply pursuant to paragraphs 14.3(2)*"a"* and 14.3(2)*"b."*

14.3(3) *Prescription for stock epinephrine auto-injectors, bronchodilator canisters, and bronchodilator canisters and spacers.* A school district or accredited nonpublic school may obtain a prescription for epinephrine auto-injectors, bronchodilator canisters, and bronchodilator canisters and spacers from a licensed health care professional annually in the name of the school district or accredited nonpublic school for administration to a student or individual who may be experiencing an anaphylactic reaction or may need treatment for respiratory distress, asthma, or other airway constricting disease. The school district or accredited nonpublic school is to maintain the supply of such auto-injectors, bronchodilator canisters, and bronchodilator canisters and spacers according to manufacturer instructions. If a school district or accredited nonpublic school obtains a prescription pursuant to the Act and these rules for epinephrine auto-injectors, the school district or accredited nonpublic school will stock a minimum of one pediatric dose and one adult dose for each school building. A school district or accredited nonpublic school may obtain a prescription for more than the minimum and may maintain a supply in other buildings.

14.3(4) *Authorized personnel and stock epinephrine auto-injector, bronchodilator canister, or bronchodilator canister and spacer administration.* A school nurse or personnel trained and authorized may provide or administer an epinephrine auto-injector, bronchodilator canister, or bronchodilator canister and spacer from a school supply to a student or individual in circumstances authorized by Iowa Code section 280.16.

a. Pursuant to Iowa Code section 280.23, authorized personnel will submit a signed statement to the school nurse stating that the authorized personnel agree to perform the service of administering a stock epinephrine auto-injector to a student or individual who may be experiencing an anaphylactic reaction or administering a bronchodilator canister or a bronchodilator canister and spacer to a student or individual experiencing respiratory distress, asthma, or other airway constricting disease.

b. Emergency medical services (911) will be contacted immediately after a stock epinephrine auto-injector is administered to a student or individual, and the school nurse or authorized personnel will remain with the student or individual until emergency medical services arrive. In the event of administration of a stock bronchodilator or bronchodilator canister and spacer to a student or individual, the school nurse will be contacted and will determine, based on professional judgment, the necessary care of a student or individual.

c. The administration of an epinephrine auto-injector, a bronchodilator, or a bronchodilator canister and spacer in accordance with this rule is not the practice of medicine.

14.3(5) *Stock epinephrine auto-injector, bronchodilator, or bronchodilator canister and spacer training.* School employees may obtain a signed certificate to become authorized personnel.

a. Training to obtain a signed certificate may be accomplished by:

(1) Successfully completing, every five years, the medication administration course provided by the department;

(2) Annually demonstrating to the school nurse a procedural return-skills check on medication administration;

(3) Annually completing an anaphylaxis, asthma, or airway constricting disease training program approved by the department;

(4) Demonstrating to the school nurse a procedural return-skills check on the use of an epinephrine auto-injector, bronchodilator canister, and bronchodilator canister and spacer using information from the training, using authorized prescriber instructions, and as directed by the prescription manufacturing label; and

(5) Providing to the school nurse a signed statement, pursuant to Iowa Code section 280.23, that the person agrees to perform one or more of the services described in this rule.

b. Training required after a medication error or medication incident. Authorized personnel or the school nurse directly involved with a medication error or medication incident involving the administration of stock epinephrine auto-injectors, bronchodilators, or bronchodilator canisters and spacers are required to follow the medication error or medication incident protocol adopted by the board of directors of the school district or authorities in charge of the school district or accredited nonpublic school. To retain authorization to administer stock epinephrine auto-injectors, bronchodilators, or bronchodilator canisters and spacers in the school setting, authorized personnel directly involved with a medication error or medication incident will be required to provide a procedural skills demonstration to the school nurse demonstrating competency in the administration of stock epinephrine auto-injectors, bronchodilators, or bronchodilator canisters and spacers.

14.3(6) *Procurement and maintenance of stock epinephrine auto-injector, bronchodilator, or bronchodilator canister and spacer supplies.* A school district or accredited nonpublic school may obtain a prescription to stock, possess, and maintain epinephrine auto-injectors, bronchodilators, or bronchodilator canisters and spacers.

a. Stock epinephrine auto-injectors, bronchodilator canisters, and bronchodilator canisters and spacers will be stored in a secure, easily accessible area for an emergency within the school building, or in addition to other locations as determined by the school district or accredited nonpublic school, and in accordance with the manufacturing label of the stock epinephrine auto-injector, bronchodilator canister, or bronchodilator canister and spacer.

b. A school district or school will designate an employee to routinely check stock epinephrine auto-injectors, bronchodilator canisters, and bronchodilator canisters and spacers and document the following in a log monthly throughout the calendar year:

(1) The expiration date;

(2) Any visualized particles or color change, for epinephrine auto-injectors; or

(3) Bronchodilator canister damage.

c. The school district or school will develop a protocol to replace as soon as reasonably possible any logged epinephrine auto-injector, bronchodilator canister, or bronchodilator canister and spacer that is used, is damaged, is close to expiration, or is discolored or has particles visible in the epinephrine auto-injector liquid.

14.3(7) *Disposal of used stock epinephrine auto-injectors, bronchodilators, or bronchodilator canisters and spacers.* The school district or school that administers epinephrine auto-injectors, bronchodilators, or bronchodilator canisters and spacers shall dispose of used cartridge injectors as infectious waste pursuant to the department's medication waste guidance and bronchodilators or bronchodilator canisters and spacers pursuant to the department's medication waste guidance. For purposes of this rule, a multiuse bronchodilator canister is considered "used" when it no longer contains sufficient active ingredient to be medically useful.

14.3(8) *Reporting.* A school district or school that obtains a prescription for stock medications under this rule will report to the department within 48 hours, using the reporting format approved by the department, each medication incident or error with the administration of a stock epinephrine injector, bronchodilator canister, or bronchodilator canister and spacer or administration of a stock epinephrine auto-injector.

14.3(9) *School district or accredited nonpublic school policy.* A school district or school may stock epinephrine auto-injectors, bronchodilator canisters, or bronchodilator canisters and spacers. The board of directors in charge of the school district or authorities in charge of the accredited nonpublic school that stocks epinephrine auto-injectors, bronchodilator canisters, or bronchodilator canisters and spacers shall establish a policy and procedure for the administration of a stock epinephrine auto-injector, bronchodilator canister, or bronchodilator canister and spacer, which is to comply with the minimum provisions of this rule.

14.3(10) *Rule of construction.* This rule will not be construed to require school districts or accredited nonpublic schools to maintain a stock of epinephrine auto-injectors, bronchodilator canisters, or bronchodilator canisters and spacers. An election not to maintain such a stock is not to be considered to be negligence.

14.3(11) *Opioid antagonists.* A school district may obtain a valid prescription for an opioid antagonist and maintain a supply of opioid antagonists in a secure location at each location where a student may be present for use as provided in this rule. Any school district that does so is to comply with rules and procedures adopted by the department of health and human services.

[**ARC 7788C**, IAB 4/17/24, effective 5/22/24]

281—14.4(279) Suicide prevention, identification of adverse childhood experiences, and strategies to mitigate toxic stress response. Iowa Code section 279.70 is incorporated by this reference.

[**ARC 7788C**, IAB 4/17/24, effective 5/22/24]

281—14.5(256,280) Severability. If any provisions of this chapter or the application thereof to any person or circumstance are held invalid, such invalidity does not affect the provisions or application of this chapter that can be given effect, and to this end the provisions of this chapter are declared to be severable.

[**ARC 7788C**, IAB 4/17/24, effective 5/22/24]

This division is intended to implement Iowa Code sections 135.185, 256.7(33), 279.70 and 280.16.

DIVISION II
COMPREHENSIVE HEALTHY AND SAFE LEARNING ENVIRONMENTS

281—14.6(279) Purpose and objectives: comprehensive healthy and safe learning environments. The purpose of this division is to provide uniform definitions and rules for public schools, accredited nonpublic schools, and area education agencies (AEAs) regarding standards for professional development and training in evidence-based classroom management practices, evidence-based interventions, appropriate and inappropriate responses to behavior in the classroom that present an imminent threat of bodily injury to a student or another person, and in accordance with 281—Chapter 103 for the reasonable, necessary, and appropriate physical restraint of a student. This division gives clear guidance that classroom clearance may be used only to terminate or prevent a threat of bodily injury and clarifies the required parental notification, response, and reporting of school behavior challenges.

This division also provides clarification of Iowa AEAs', public school districts', and accredited nonpublic school districts' responsibilities and the responsibilities of behavioral health service providers under Iowa Code section 280A.1, should they choose to enter into agreements for behavioral health screenings or telehealth services.

This division is intended to promote a comprehensive safe learning space for learners and school staff, and to promote the dignity, care, safety, welfare, and security of each child and the school community; encourage the use of proactive, effective, and evidence- and research-based strategies resulting in increased learning for all students; lessen disruption to instruction; and expand supports for educators through teacher preparation, revised protocols, training and professional learning.
[**ARC 7788C**, IAB 4/17/24, effective 5/22/24]

281—14.7(279) Definitions. For the purposes of this division:

"Assault" means the same as defined in Iowa Code section 708.1.

"Bodily injury" or *"injury"* means physical pain, illness, or any other impairment of physical condition. For purposes of required reporting, the injury is to be the result of intentional act and not accidental and a physical injury to a person's body that is apparent within 24 hours after the incident and may include damage to any bodily tissue to the extent that the tissue must undergo a healing process in order to be restored to a sound and healthy condition. Mental or verbal insult is not covered by this definition.

"Classroom clear" means clearing all other students out of the classroom to calm a child or to address disruption by a child. It is not necessary to use the phrase "classroom clear" to be covered by this division. The mere use of the term "classroom clear" does not bring that activity within the coverage of this division. Using another term for a "classroom clear" does not remove that activity from the coverage of this division. A classroom clear is not either of the following:

1. Removing other students from a classroom to preserve a student's dignity/privacy in the event of a medical emergency, health issue, or both, or
2. Emergency procedures a school/district may use in the event of a school crisis or natural disaster.

"Classroom management" means the set of skills, practices, and strategies teachers use to maintain productive and prosocial behaviors that enable effective instruction in whole class or small group settings.

"Department" means the Iowa department of education.

"Evidence-based" means an activity, strategy or intervention that demonstrates a significant effect on improving student outcomes or other relevant outcomes. Activities, strategies, or interventions with strong or moderate evidence should be prioritized.

"Parent" means an individual included in the definition of "parent" in rule 281—41.30(256B,34CFR300) and also includes an individual authorized to make decisions for the child pursuant to a power of attorney for temporary delegation of custody or for making educational decisions.

"Physical restraint" means the same as defined in rule 281—103.2(256B,280).

"Property damage" means serious damage to property of significant monetary value or significant nonmonetary value or importance because of violence. For purposes of required reporting, the property

damage must be the result of intentional act and not accidental. In assessing significant nonmonetary value for purposes of this definition, the following will be considered: the property is not of significant monetary value but difficult to replace or its loss or damage impedes learning, or an object(s) used as a weapon resulting in damage to the object or property.

"Reasonable and necessary force" means that force, and no more, which a reasonable person would judge to be necessary under the circumstances that existed at the time, that is not intended to cause pain, and that does not exceed the degree or duration needed to accomplish the purposes set forth in rule 281—103.5(256B,280).

"School district" means an Iowa public school district directly supported in whole or in part by tax dollars, as defined in Iowa Code section 280.2, and with the power and jurisdiction provided by Iowa Code section 274.1.

"Social-emotional-behavioral health" or *"SEBH"* means social, emotional, behavioral and mental well-being that affects how one thinks, feels, communicates, acts, and learns. These contribute to resilience and to how one relates to others, responds to stress and emotions, and makes choices. Foundational knowledge and skills that promote SEBH include self-awareness, self-management, responsible decision-making, social awareness, and relationship skills that support positive well-being and academic success.

"Therapeutic classroom" means a classroom designed for the purpose of providing support for any student whose emotional, social, or behavioral needs interfere with the student's ability to be successful in the current educational environment, with or without supports, until the student is able to successfully return to the student's current education environment, with or without supports, including but not limited to the general education classroom. It is not necessary to use the phrase "therapeutic classroom" to be covered by this division. The mere use of the term "therapeutic classroom" does not bring those services or locations within the coverage of this division. Using another term for a "therapeutic classroom" does not remove that service or location from the coverage of this division.

[**ARC 7788C**, IAB 4/17/24, effective 5/22/24]

281—14.8(279) Classroom clears.

14.8(1) A classroom teacher may clear students from the classroom only if necessary to prevent or terminate an imminent threat of bodily injury to a student or another person in the classroom. A threat is imminent when it is reasonably likely to inflict pain, illness, or any other impairment of physical condition.

14.8(2) A classroom clear means clearing all other students out of the classroom to calm a child. A classroom clear in which an adult remains with a student to calm the student is not considered seclusion.

14.8(3) The limitations on use of classroom clears pertains to all classrooms, general and special education, ages 3 through 21, when a child is served in a setting that is using public funds for educational purposes.

14.8(4) If a classroom clear is included within a school's or district's crisis response plan, the school or district will also follow the additional provisions of Iowa Code section 279.51A and this division.

14.8(5) In determining if a classroom clear may be used to prevent or terminate an imminent threat, the following factors apply:

a. The size and physical, mental, and psychological condition of the student;

b. The nature of the student's behavior;

c. The presence of a weapon or material that can be weaponized;

d. The extent and nature of resulting bodily injury to the student and other persons in the classroom; and

e. The prevention of physical intervention that will likely escalate behavior and result in bodily injury.

[**ARC 7788C**, IAB 4/17/24, effective 5/22/24]

281—14.9(279) Required parent/guardian notifications and responses.

14.9(1) *General.* If a classroom clear is used to prevent an imminent threat, the following notifications and actions shall occur:

a. The school principal will, by the end of the school day if possible, but at least within 24 hours after the incident, notify the parents/guardians of all students assigned to the classroom that it was cleared.

b. The notification will not identify, directly or indirectly, any students involved in the incident giving rise to the classroom clearance.

c. The principal will request that the parent/guardian of the student whose behavior caused the classroom clear meet with the principal, the classroom teacher, and other staff as appropriate.

14.9(2) *Students with disabilities.* When a student with a disability whose behavior caused a classroom clear and has an individualized education program (IEP) or a behavioral intervention plan (BIP), the classroom teacher will call for and be included in a review and potential revision of the student's IEP or BIP by the student's IEP team. The AEA, in collaboration with the school district, may, when the parent or guardian meets with the IEP team during the review or reevaluation of the student's IEP, inform the parent or guardian of individual or family counseling services available in the area. The public agencies are to provide those services if those services are necessary for a free appropriate public education, pursuant to 281—subrule 41.320(7).

14.9(3) *Students without disabilities.*

a. If a student does not have an IEP or a BIP, the meeting will include an intervention plan that reduces the likelihood of the recurrence of behaviors requiring a classroom clear.

b. If a student has a BIP but does not have an IEP, the classroom teacher will call for and be included in a review and potential revision of the student's behavioral intervention plan.

c. If the school suspects the student whose behavior resulted in a classroom clear might be eligible for a BIP, individual health plan (IHP), safety plan, or IEP, the public agencies shall promptly determine the child's eligibility in accordance with the procedures required for determining eligibility.

14.9(4) *Parent input.* The team is to consider parent input in identifying supports to address behaviors that caused the classroom clear.

a. If the parent of a student with an IEP chooses not to participate in the meeting, the school will follow procedures to document efforts to invite the parent, as required by rule 281—41.322(256B,34CFR300), and inform the parent of proposed changes to the IEP or BIP, or both, pursuant to rule 281—41.503(256B,34CFR300).

b. If the parent of a student without an IEP chooses not to participate in the meeting, the school will continue to support the student's needs by planning and providing intervention for the student.

14.9(5) *Additional provisions.* When calling for a meeting, the classroom teacher may be required to follow procedures established by the school district or AEA to request such a meeting. Any recommended change to a student's behavior intervention plan, individual health plan, safety plan, or educational placement is to be made in accordance with the procedures required for amending said plan or changing said placement.

[**ARC 7788C**, IAB 4/17/24, effective 5/22/24]

281—14.10(279) Documentation and reporting.

14.10(1) *General.* A classroom teacher shall report to the principal any incident of assault or violence that results in injury or property damage by a student enrolled in the school. For purposes of this rule, "attending students" includes all students who are actively attending school, suspended or expelled during the reporting school year. Districts should document all incidents that occur in a school building, on school grounds, or at a school-sponsored function by students attending school in the district. The school district shall report to the department, in a manner prescribed by the department, an annual count of disaggregated incidents of assault, violence resulting in injury, violence resulting in property damage, and referral/transfer to a therapeutic classroom that includes the therapeutic components as described in subrule 14.13(2). Incidents shall be reported if they occurred by a student in a school building, on school grounds, or at a school-sponsored function.

14.10(2) *Contents of report.* The report will include demographic information on students reported as victims and perpetrators, disaggregated by race, gender, national origin, age, grade level, and disability status, along with any other data needed by the department to implement the Elementary and Secondary Education Act as amended by the Every Student Succeeds Act, Public Law 114-95, as effective on February 7, 2024, and with safeguards to ensure student privacy.

14.10(3) *Reporting by the department.* The department of education will compile and summarize the data it receives under this rule and submit a report to the general assembly each year by November 1.

[**ARC 7788C**, IAB 4/17/24, effective 5/22/24]

281—14.11(256) Crisis response.

14.11(1) *General.* The following consists of appropriate responses to classroom behavior that presents an imminent threat of bodily injury and consistent with rules for seclusion and restraint:

a. Responses are to include nationally recognized best practices of crisis response/intervention to de-escalate behaviors that are likely to result in bodily harm.

b. Crisis response strategies are to include a safety assessment and continuum of strategies informed by the level of risk and the safety assessment.

c. When possible, response strategies are to use less disruptive, nonphysical intervention prior to the use of physical interventions, unless the circumstances are such that physical intervention is necessary to ensure the safety of the student and others.

14.11(2) *Use of reasonable force.* Notwithstanding the ban on corporal punishment in rule 281—103.3(256B,280), no employee subject to these rules is prohibited from using reasonable and necessary force in compliance with this chapter and 281—Chapter 103. An employee is not privileged to use unreasonable force to accomplish any of the purposes listed in this chapter and 281—Chapter 103. If physical force is used, school employees shall comply with any provisions of 281—Chapter 103 and this chapter.

[**ARC 7788C**, IAB 4/17/24, effective 5/22/24]

281—14.12(256) Prevention of classroom behaviors that present an imminent threat.

14.12(1) Appropriate responses to behaviors, including classroom behavior that presents an imminent threat of bodily injury, are to be part of evidence-based tiered supports within the department's continuous improvement framework to support student SEBH.

14.12(2) The evidence-based tiered supports will:

a. Include universal support for all students that foster the emotional well-being of students through schoolwide safe and supportive environments.

b. Be culturally responsive.

c. Be trauma responsive.

d. Include positive school discipline practices.

e. Include crisis prevention, intervention and de-escalation that is based on student SEBH needs and reasonable in response to the behavior that is being exhibited.

f. Include proactive strategies that enable schools to identify and intervene early in order to minimize the escalation of identified behavioral health symptoms and other barriers to school success.

g. Include classroom management practices that include the following evidence-based practices:

(1) An effectively designed physical classroom.

(2) Predictable classroom routines.

(3) Posted positive classroom expectations.

(4) Prompts and active supervision.

(5) Varied opportunities to respond.

(6) Acknowledgments for expected behavior.

h. Engage parents and guardians as partners in identifying appropriate supports for the students.

i. Support student development of social-emotional competencies and skills through planned universal instruction.

j. Have a set of specific supplemental interventions and intensive intervention supports that:

(1) Are for students whose behaviors are unresponsive to low-intensity strategies.

(2) Are based on functional behavior assessment (FBA).

(3) Are supported by individuals trained to handle such issues.

(4) Involve parents in development and ongoing review.

[**ARC 7788C**, IAB 4/17/24, effective 5/22/24]

281—14.13(256) Therapeutic classroom. A school district may include therapeutic classrooms as part of its district's or building's tiers of SEBH supports. A therapeutic classroom is designed for the purpose of

providing support for any student, with or without an IEP, whose emotional, social, or behavioral needs interfere with the student's ability to be successful in the current educational environment, with or without supports, until the student is able to successfully return to the student's current education environment, with or without supports, including but not limited to the general education classroom. A placement in a therapeutic classroom shall not be permanent or indefinite but will be reviewed periodically as called for in this rule. For the purpose of this chapter, the word "classroom" is a descriptor of an educational set of services that create the educational environment that may include a separate physical setting from other students.

14.13(1) *Continuum of programming.* Therapeutic classrooms include the therapeutic programming students may need to support them across a range of educational settings or learning spaces, or both, and are not necessarily standalone or isolated classrooms. Therapeutic classroom supports are part of a district's tiers of SEBH supports.

14.13(2) *Therapeutic classrooms.* For state cost reimbursement and reporting purposes, a therapeutic classroom will:

a. Include the following therapeutic components:

(1) A multidisciplinary team who collaborates regularly to support design, implementation and decision-making regarding therapeutic program supports including but not limited to an individual qualified to conduct diagnostic assessments and support SEBH programming for individuals with social-emotional concerns;

(2) Practices that enhance positive childhood experiences;

(3) Clearly articulated and taught behavioral expectations and routines;

(4) Regular assessment of social-emotional competencies with targeted individualized instruction, small group social-emotional instruction, or both;

(5) Individualized BIPs developed based on FBAs and trauma-informed practice;

(6) Regular engagement of family to review progress and make decisions for more or less restrictive programming;

(7) Supports for generalization and transition to less restrictive supports/settings since a therapeutic classroom is a temporary intervention. Supports include opportunities to practice social-emotional skills in natural contexts with similar age/grade peers.

b. Be operated by and housed in the school district seeking reimbursement.

c. Have appropriately licensed and certified teacher(s).

d. Follow program standards for the age(s) served and the full extent of the district's comprehensive education program, including:

(1) Preschool programs follow preschool program standards, as specified in 281—Chapter 16;

(2) Prekindergarten through twelfth grade programs follow 281—Chapter 12;

(3) Programs that serve students with IEPs also follow 281—Chapter 41.

e. Not solely consist of any one of the following:

(1) Calming room/space;

(2) Single strategy or program without individualization;

(3) Space/location for disciplinary action;

(4) Seclusion room.

14.13(3) *General education students.* When general education students are served through a therapeutic classroom, the following must occur:

a. The therapeutic classroom has to have clear requirements for referral, admission, progress monitoring, and exit that focus on supporting learners to return to general services,

b. Each general education student has an individualized BIP developed based on an FBA,

c. When a student receives therapeutic services for 50 percent or more of the school day, a team of qualified professionals, the teacher, and the family will review the BIP every 60 days to consider the need for transition to more or less intensive programming,

d. If, at any point, public agencies suspect a disability, the public agencies are to request consent for a full and individual evaluation for special education from the parent pursuant to 281—Chapter 41.

14.13(4) *Special education students.* Districts operating therapeutic classrooms that serve learners with IEPs will follow 281—Chapter 41, including provisions for education in the least restrictive environment.

14.13(5) *Consortium agreements.* A district may enter into a cost-sharing consortium agreement with one or more school districts or area education agencies to provide therapeutic classroom supports. Districts shall not enter into an agreement to purchase or hold seats in a therapeutic classroom. If a district seeks cost reimbursement for student(s) who attend a therapeutic classroom:

a. The therapeutic classroom is to be housed within the district's boundaries;

b. The district seeking reimbursement is fiscally responsible for the therapeutic classroom;

c. The district seeking reimbursement is responsible for operating the therapeutic classroom.

14.13(6) *Rule of construction.* A school district is not required to operate a therapeutic classroom; however, a school district is required to ensure therapeutic services are available, whether in-district or otherwise, to students who need those services to access or benefit from an education.

[**ARC 7788C**, IAB 4/17/24, effective 5/22/24]

281—14.14(256) Therapeutic classroom—claims. A school district may submit claims to the department for the costs of providing therapeutic classroom services and transportation services in accordance with this rule and Iowa Code section 256.25A.

14.14(1) *Reimbursement of transportation services.* If the general assembly appropriates moneys for purposes of transportation claims reimbursement in accordance with this subrule, the resident school district may submit a claim to the department for reimbursement for transportation services for a student who is transported to a therapeutic classroom operated by another school district or accredited nonpublic school and located more than 30 miles from the student's designated school or accredited nonpublic school.

a. Claims are allowable for students enrolled in the school district or in an accredited nonpublic school located in the district boundary and who do not have an assigned special education weighting.

b. Such claims may be allowable when the school districts or school district and accredited nonpublic school have a shared agreement to provide the therapeutic classroom.

c. Claims will be made to the department of education using an invoice supplied by the department and completed by the school district providing transportation during the school year.

d. Claims include a listing of actual costs per student transported to a therapeutic classroom, including number of days transported, transportation miles, and other actual costs.

14.14(2) *Claims for reimbursement of services.*

a. By June 15, 2022, and annually by June 15 thereafter, districts may submit a claim for reimbursement of therapeutic classroom services for the prior school year.

b. By July 1 of each year, the department will draw warrants payable to school districts for such claims.

c. On June 15, 2022, and continuing each June 15 thereafter, districts providing therapeutic classrooms may submit a claim for reimbursement to the department for students served by their therapeutic classroom during the prior school year who have BIPs but no IEP weighting. Districts may submit claims for 1.5 weighting for the number of days they served the student and the number of days in the school district's calendar.

d. School districts will collect student-level data throughout the year and submit it at the end of the year using a department invoice.

e. In order for the school district to submit a claim for reimbursement for students attending an accredited nonpublic school or receiving competent private instruction, the student will be counted as a shared-time student in the district in which the nonpublic school of attendance is located.

f. Reimbursement will be prorated if claims exceed the amount appropriated.

g. Claims must include: student served in a therapeutic classroom, confirmation the student has a BIP and does not have a weighted IEP for the period claimed, number of days served and the number of days in the school district's calendar.

h. The costs of providing transportation to nonpublic school pupils as provided in this rule will not be included in the computation of district cost under Iowa Code chapter 257 but will be shown in the budget as an expense from miscellaneous income. Any transportation reimbursements received by a school district

for transporting nonpublic school pupils do not affect district cost limitations of Iowa Code chapter 257. The reimbursements provided in this rule are miscellaneous income as defined in Iowa Code section 257.2.
[**ARC 7788C**, IAB 4/17/24, effective 5/22/24]

281—14.15(256,279,280) Required training. This rule applies to public schools, nonpublic school districts and area education agencies.

14.15(1) An employee must receive training that complies with 281—Chapter 103 prior to using any form of physical restraint or seclusion and includes research-based alternatives to physical restraint and seclusion.

14.15(2) An employee must receive training regarding the least restrictive environment. While there is a presumption that the general education environment is the least restrictive environment, data may overcome that presumption. "General education classroom" is not synonymous with "least restrictive environment." Training will include the process and procedures for:

a. Making placement decisions based on individual student performance data and participation with peers without disabilities; and

b. Reviewing student performance data to determine whether changes need to be made to ensure the individual is being educated in the learner's least restrictive environment.

14.15(3) AEA staff, classroom teachers and school administrators shall receive training prior to using a classroom clear to calm a student. Training shall be reviewed regularly, but no less frequently than once every three school years, and cover the following topics:

a. The rules of this chapter;

b. The school's specific policies and procedures regarding the rules of this chapter;

c. Training on recognizing and responding to incidents that are an imminent threat of bodily injury;

d. Student, parent/guardian, and staff notifications and parent follow-up requirements;

e. Reporting requirements for incidents of assault and violence resulting in injury or property damage;

f. Reporting requirements for referral and transfer to therapeutic classroom(s);

g. The school's specific crisis response plan for incidents of imminent threat;

h. Staff supports following a crisis or significant event.

14.15(4) Within one year of beginning employment in a teaching position in Iowa, a classroom teacher shall receive training on the prevention of behaviors that present an imminent threat. Training must include the following topics:

a. The school's specific policies and procedures for creating learning environments that are safe and supportive.

b. Evidence-based culturally responsive approaches to student discipline.

c. Evidence-based classroom management strategies that include:

(1) An effectively designed physical classroom.

(2) Predictable classroom routines.

(3) Posted positive classroom expectations.

(4) Prompts and active supervision.

(5) Varied opportunities to respond.

(6) Acknowledgments for expected behavior.

d. Universal instruction of social-emotional competencies.

e. Engaging families as partners in identifying appropriate supports for learner success.

f. Crisis prevention, crisis intervention, and crisis de-escalation techniques consistent with rule 281—14.4(279).

14.15(5) AEA and school district staff who engage in intervention planning to support supplemental and intensive social-emotional interventions shall receive training on evidence-based interventions for challenging classroom behaviors. Training must include the following topics:

a. FBAs;

b. Using FBAs to design BIPs;

c. Individual safety plans;

d. Supports for student reentry to learning following a significant event;

e. Supports for teacher implementation of BIPs;

f. Crisis prevention, crisis intervention, and crisis de-escalation techniques consistent with rule 281—14.4(279) that are culturally responsive and trauma responsive;

g. Duties and responsibilities of school resource officers and other responders; the techniques, strategies and procedures used by responders; and knowledge of who in the building is trained and authorized in seclusion and restraint;

h. Documentation and notification requirements for incidents of seclusion, restraint, classroom clear and transfer/referral to a therapeutic classroom.

[**ARC 7788C**, IAB 4/17/24, effective 5/22/24]

281—14.16(256) Department responsibilities, evidence-based standards, guidelines and expectations. By June 30, 2022, the department will develop, establish, and distribute to all school districts evidence-based standards, guidelines, and expectations for the appropriate and inappropriate responses to behavior in the classroom that present an imminent threat of bodily injury to a student or another person to assist the districts in compliance with this rule. The standards, guidelines, and expectations will be consistent with 281—Chapter 103. The evidence-based standards, guidelines, and expectations for the appropriate and inappropriate responses to behavior in the classroom that presents an imminent threat of bodily injury will be based on the department's continuous improvement framework to support student social-emotional-behavioral health (SEBH). The director will consult with the area education agencies to create comprehensive and consistent standards and guidance for professional development relating to successfully educating individuals in the least restrictive environment, and for evidence-based interventions consistent with the standards established pursuant to this rule.

[**ARC 7788C**, IAB 4/17/24, effective 5/22/24]

This division is intended to implement Iowa Code chapters 256, 279 and 280.

281—14.17 to **14.19** Reserved.

DIVISION III
SCHOOL BEHAVIORAL HEALTH SCREENING AND TELEHEALTH

281—14.20(256B,280A) Definitions. For the purposes of this division, the definitions contained in Iowa Code section 280A.1 are incorporated by this reference.

[**ARC 7788C**, IAB 4/17/24, effective 5/22/24]

281—14.21(280A) Behavioral health screenings in school settings.

14.21(1) A school district, an accredited nonpublic school, or an AEA may contract with a mental health professional or a nationally accredited behavioral health care organization in order to provide universal behavioral health screenings to students. If the school district, accredited nonpublic school, or area education agency contracts with mental health professionals to conduct behavioral health screenings, the following paragraphs apply:

a. The screenings will be administered with the contracted mental health professional present, using a screener approved by the department, in consultation with the department of health and human services.

b. The school district, accredited nonpublic school, or AEA that contracts for on-site student behavioral health screenings will obtain written parent or guardian consent or, in the case of a student who has reached the age of majority, the student's written consent prior to the student's participating in each screening.

c. At any point before or during the screening, a student may opt out or discontinue participation in the screening without retribution.

14.21(2) The parental consent is to allow for the mental health professional to disclose the screening results to the school or AEA if there is a credible threat to the health and safety of the student or others and provide the appropriate emergency contact. The parental consent may allow for the mental health professional to disclose screening information to the school or AEA in order to support the student(s) who may need intervention that could be provided through the school.

14.21(3) The school district or AEA will ensure that the mental health professionals contracted to administer the screeners are qualified to administer the selected behavioral health screener.

14.21(4) The school district or AEA will have procedures to secure and limit the access to health information to comply with the Health Insurance Portability and Accountability Act (HIPAA), effective February 7, 2024, in accordance with parental consent.

14.21(5) If a mental health professional conducts the screening and determines that a student needs additional behavioral health services, the mental health professional:

a. Notifies the parent or guardian of the student of the results of the screening.

b. May notify the student's primary care provider, with parent or guardian consent, or the consent of the student who has reached the age of majority.

c. May provide a list of local primary care providers to the parent or guardian if the student does not have a primary care provider.

[**ARC 7788C**, IAB 4/17/24, effective 5/22/24]

281—14.22(280A) Establishment of provider-patient relationship for telehealth in school setting.

14.22(1) Iowa Code section 280A.3(1), 280A.3(3), and 280A.3(4) are incorporated by this reference.

14.22(2) If a mental health professional provides behavioral health services via telehealth on school/AEA premises, the mental health professional will first establish a valid provider-patient relationship. The provider-patient relationship is established when:

a. The student, with the consent of the student's parent or guardian when the student has not yet reached the age of majority, seeks help from a mental health professional;

b. The mental health professional agrees to provide treatment of the student; and

c. The student's parent or guardian agrees to have the student treated by the mental health professional.

14.22(3) If a provider-patient relationship is established and the student has not yet reached the age of majority, parent or guardian consent will be obtained prior to the student receiving behavioral health services via telehealth in a school or AEA setting and is necessary each academic year that the student receives telehealth services.

[**ARC 7788C**, IAB 4/17/24, effective 5/22/24]

281—14.23(280A) Behavioral health services provided via telehealth in a school setting. Iowa Code section 280A.4 is incorporated by this reference.

[**ARC 7788C**, IAB 4/17/24, effective 5/22/24]

[Filed ARC 2311C (Notice ARC 2183C, IAB 10/14/15), IAB 12/9/15, effective 1/13/16]
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CHAPTER 15
ONLINE AND VIRTUAL LEARNING

Chapter rescission date pursuant to Iowa Code section 17A.7: 5/22/29

281—15.1(256) Definitions.

"Accredited nonpublic school" means a nonpublic school accredited pursuant to Iowa Code section 256.11.

"Appropriately licensed and endorsed" or *"appropriately licensed"* means possession of current and valid licensure by the Iowa board of educational examiners to practice at a prescribed educational level in a specified content area.

"Area education agency" or *"AEA"* refers to a political subdivision organized pursuant to Iowa Code chapter 273.

"Board of educational examiners" or *"BOEE"* refers to the body with the statutory responsibility to license Iowa educators.

"Delivered primarily over the Internet" means more than 50 percent of the course content or instruction or both is delivered using the Internet.

"Department" means the department of education.

"Director" means the director of the department of education.

"Exclusive instruction" means without the use of any other form of instructional delivery.

"Online learning" and *"online coursework"* mean educational instruction and content that are delivered primarily over the Internet. "Online learning" and "online coursework" do not include print-based correspondence education, broadcast television or radio, videocassettes, or stand-alone educational software programs that do not have a significant Internet-based instructional component.

"Online learning platform" means a set of services by which students access course content and by which students and teachers connect and communicate.

"Online school" refers to a district or nonpublic school providing educational instruction and course content delivered primarily over the Internet for a group of students for whom this method of delivery is the primary method of education. "Online school" also refers to a school for which a district accepts open enrollment for the express purpose of attendance at the online school and that has received permission from the department to operate.

"Participating school district or accredited nonpublic school" means a school district or accredited nonpublic school that is providing online learning or online coursework.

"Private provider" means, for purposes of this chapter, any public or private entity that is not a school district, an accredited nonpublic school, or an AEA.

"School district" means a political subdivision organized pursuant to Iowa Code chapter 274.

"Telecommunications" means narrowcast communications through systems that are directed toward a narrowly defined audience and includes interactive live communications. "Telecommunications" does not include online learning.

[**ARC 7789C**, IAB 4/17/24, effective 5/22/24]

281—15.2(256) Telecommunications for instruction.

15.2(1) *Applicability.* This rule applies to all AEAs, school districts, accredited nonpublic schools, community colleges, and institutes of higher education using telecommunications to serve students in kindergarten through grade 12.

15.2(2) *Course eligibility.* Telecommunications may be employed as a means to deliver any course, including a course necessary for accreditation by the department, provided it is not the exclusive means of instructional delivery.

15.2(3) *Appropriately licensed and endorsed teachers.* Instruction provided by telecommunications is to be taught by an appropriately licensed and endorsed teacher, in a manner provided by Iowa Code section 256.7(7)*"a."*

[**ARC 7789C**, IAB 4/17/24, effective 5/22/24]

281—15.3(256) Online learning—private providers.

15.3(1) *Online learning model established.* An online learning program model is established by the director, pursuant to Iowa Code section 256.9, that provides districts and accredited nonpublic schools with a list of approved online providers. Approved providers will meet criteria for approval in accordance with Iowa Code section 256.43(1)*"a."*

15.3(2) *Use of approved private providers.* Courses developed by private providers may be utilized by a school district or school in implementing a high-quality online learning program in circumstances described in Iowa Code section 256.43(2)*"a."*

15.3(3) *Approval criteria.* The department will maintain a list of approved online providers that provide course content through an online learning platform whose content and delivery meet the following provisions:

a. Courses meet the standards of Iowa Code section 256.7(32)*"c."*

b. The provider supplies coursework customized to the needs of the student.

c. The provider offers a means for a student to demonstrate competency in completed online coursework.

d. Courses provide online content and instruction evaluated on the basis of student learning outcomes.

15.3(4) *Approval process.* Private providers of online course content or full-time online instruction will apply for approval to offer such services to Iowa school districts and accredited nonpublic schools a minimum of once every five years on forms provided by the department. Applications to provide services may be received at any time; however, the department will give preference to applications received no later than May 1 during the year prior to the school year in which the provider intends to provide services. Applications received by the deadline of May 1 will be answered no later than June 1. An approved provider will also apply in each year that any of these alterations take place, which are substantial in nature:

a. The provider altered the courses or content offered by either adding or subtracting grade levels or subjects.

b. The provider altered the delivery of the courses or content offered by altering the learning management system or delivery of assessments.

c. The provider altered the evaluation of student learning used in the system.

d. The provider altered the online learning content or delivery in any other way that may reasonably be considered material to a school district considering the use of a private provider.

[**ARC 7789C**, IAB 4/17/24, effective 5/22/24]

281—15.4(256) Online learning provided by area education agencies.

15.4(1) *Online learning program delivered by area education agencies.* Subject to an appropriation of funds by the general assembly for this purpose, AEAs may provide an online learning program to deliver distance education to Iowa's secondary students, including students receiving competent private instruction under Iowa Code chapter 299A. An AEA may provide an online learning program separately, in collaboration with other AEAs, or in partnership with school districts and accredited nonpublic schools.

15.4(2) *Student participation.* To participate in an online learning program offered by an AEA, a student must be enrolled in a participating school district or accredited nonpublic school or be receiving competent private instruction under Iowa Code chapter 299A.

15.4(3) *District responsibility.* The school district or accredited nonpublic school in which the student is enrolled is responsible for:

a. Recording a student's program coursework grades in the student's permanent record.

b. Awarding high school credit for program coursework.

c. Issuing a high school diploma to a student enrolled in the district or school who participates and completes coursework under the program.

d. Identifying a site coordinator to serve as a student advocate and as a liaison between the program staff and teachers and the school district or accredited nonpublic school.

15.4(4) *Cost.* School districts and accredited nonpublic schools will pay to AEAs the actual cost of providing coursework under an online learning program offered in accordance with this rule.

15.4(5) *Course content and delivery.* Content and delivery provided by an online learning program established pursuant to this rule must meet the provisions of Iowa Code section 256.7(32)*"c."* Grades in online courses are awarded based on Iowa Code section 256.43(3).

15.4(6) *Competent private instruction.* This rule applies to students receiving competent private instruction under Iowa Code chapter 299A. To participate in an online learning program offered by an area education agency, a student receiving competent private instruction under Iowa Code chapter 299A will take whatever steps are necessary to enroll with the student's district of residence. The coursework offered by AEAs pursuant to this subrule must be taught and supervised by a teacher appropriately licensed by the BOEE who has online learning experience, and the course content must meet the provisions of Iowa Code section 256.7(32)*"c."*

[**ARC 7789C**, IAB 4/17/24, effective 5/22/24]

281—15.5(256) Online learning program provided by a school district—online schools.

15.5(1) *Online learning program provided by a school district.* A school district may provide an online learning program delivered primarily over the Internet that operates as an online school. Such a program is governed by Iowa Code section 256.41.

15.5(2) *Course content and delivery.* Content and delivery provided by an online learning program established pursuant to this rule must meet the provisions of Iowa Code section 256.7(32)*"c."* Grades in online courses are awarded based on Iowa Code section 256.43(3).

15.5(3) *Approval criteria.* The department will maintain a list of approved school districts that provide course content through an online learning platform whose content and delivery meet the provisions of subrule 15.5(2).

15.5(4) *Approval process.* School district providers of online course content or full-time online instruction will apply for approval to offer such services to Iowa districts and accredited nonpublic schools a minimum of once every five years on forms provided by the department. If a school district is providing full-time online instruction only to its resident students and not to any other students, the school district need not seek approval; however, the school district must ensure it meets the provisions of subrules 15.5(1) and 15.5(2). Applications may be received at any time; however, the department will give preference to applications received no later than May 1 during the year prior to the school year in which the provider intends to provide services. Applications received by the deadline of May 1 will be answered no later than June 1. An approved district provider under this rule will also apply in each year that any of these alterations take place, which are substantial in nature:

a. The provider altered the courses or content offered by either adding or subtracting grade levels or subjects.

b. The provider altered the delivery of the courses or content offered by altering the learning management system or delivery of assessments.

c. The provider altered the evaluation of student learning used in the system.

d. The provider altered the online learning content or delivery in any other way that may reasonably be considered material to a school district considering the use of a private provider.

[**ARC 7789C**, IAB 4/17/24, effective 5/22/24]

281—15.6(256) Online learning provided by a school district or accredited nonpublic school—courses.

15.6(1) *Course content and delivery.* A school district or accredited nonpublic school may provide an online learning program to deliver online learning and online coursework to students attending the district or school. Content and delivery provided by an online learning program established pursuant to this rule must meet the provisions of Iowa Code section 256.7(32)*"c."* Grades in online courses are awarded based on Iowa Code section 256.43(3).

15.6(2) *Use to meet general accreditation standards.* Any course that is not part of the offer-and-teach standards for grades 9 through 12 may be provided by an area education agency, by the school district or accredited nonpublic school, or through an online learning platform or online exchange offered by the department in collaboration with area education agencies, school districts, or accredited nonpublic schools. Online courses may be used to meet offer-and-teach standards for grades 9 through 12 in the circumstances

described in Iowa Code section 256.11(17)*"a."* Additionally, a school district or accredited nonpublic school may apply for an annual waiver of the standards for up to two specified subjects in the circumstances described in Iowa Code section 256.11(17)*"b."*

15.6(3) *Delivery options for general accreditation standards.* Delivery of coursework used to meet general accreditation standards is governed by Iowa Code section 256.11(17)*"c."*

15.6(4) *Competent private instruction.* The online learning platform described in subparagraph 15.8(3)*"b"*(3) may deliver distance education to students receiving competent private instruction under Iowa Code chapter 299A, provided such students register with the school district of residence and the coursework offered by the online learning platform is taught and supervised by a teacher appropriately licensed by the BOEE who has online learning experience, and the course content meets the provisions of Iowa Code section 256.7(32)*"c."*

15.6(5) *Coordination and costs.* The department and the area education agencies operating online learning programs pursuant to Iowa Code section 273.16 will coordinate to ensure the most effective use of resources and delivery of services. Federal or other funds, if available, may be used to offset what would otherwise be costs to school districts for participation in the program.

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281—15.7(256) Open enrollment. Content and delivery provided online pursuant to rule 281—15.3(256), 281—15.4(256), 281—15.5(256) or 281—15.6(256) may be provided to pupils who are participating in open enrollment under Iowa Code section 282.18.

15.7(1) *Courses.* A school district may provide individual courses it developed, or any other courses developed pursuant to this chapter (including courses developed by private providers), delivered primarily over the Internet to pupils who are participating in open enrollment under Iowa Code section 282.18.

15.7(2) *Termination.* If a student's participation in open enrollment to receive educational instruction and course content delivered primarily over the Internet results in the termination of enrollment in the receiving district, the receiving district will, within 30 days of the termination, notify the district of residence of the termination and the date of the termination.

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281—15.8(256) Online learning—access by students receiving competent private instruction. Students enrolled in competent private instruction pursuant to Iowa Code chapter 299A may participate in online instruction pursuant to subrules 15.4(6) and 15.6(4). The individual providing instruction to a student under Iowa Code chapter 299A as described in Iowa Code section 299A.1(1) will receive the student's score for completed program coursework.

[**ARC 7789C**, IAB 4/17/24, effective 5/22/24]

281—15.9(256,256B) Online learning—students with disabilities.

15.9(1) Children with disabilities are not to be categorically excluded from admission to online learning programs or from enrollment in online coursework.

15.9(2) Whether an online course or online learning is appropriate to a child with a disability must be determined by the child's needs, not by the child's assigned weighting under Iowa Code section 256B.9. If a child's individualized education program (IEP) goals cannot be met in online learning, with or without supplementary aids and services or modifications, online learning is not appropriate to the child.

15.9(3) If a child's IEP team determines that online learning is inappropriate to the child, the child's parents are entitled to prior written notice pursuant to rule 281—41.503(256B,34CFR300) and to have available to them the procedural safeguards provided under rule 281—41.504(256B,34CFR300).

15.9(4) When a child with an IEP seeks open enrollment into an online learning program, the child's IEP team will determine whether the child meets the open enrollment provisions of 281—Chapter 17. In addition, the child's IEP team, together with representatives of the resident and receiving districts and the relevant area education agencies, will determine whether the receiving district is able to provide an appropriate online education to the child, either with or without supplementary aids and services or modifications. Any dispute about whether the receiving district's program is appropriate will be resolved

pursuant to 281—Chapter 17. The child is to remain in the child's resident district while any dispute about the appropriateness of the receiving district's program is pending.
[**ARC 7789C**, IAB 4/17/24, effective 5/22/24]

281—15.10(256) Department general supervision of telecommunications and online learning.

15.10(1) *Nature of general supervision.* The department will exercise general supervision over compliance with this chapter and offer advice and technical assistance to foster compliance and improved outcomes. This will be accomplished by department staff.

15.10(2) *Data collection and reporting.*

a. Each school district and accredited nonpublic school will list and describe the online coursework offered by the school district or accredited nonpublic school in which the student is enrolled.

b. A school district providing educational instruction and course content delivered primarily over the Internet that is required to seek approval under subrule 15.5(4) will annually submit to the department, in the manner prescribed by the department, data sought by the department, including data specified in Iowa Code section 256.7(32)*"b"*(1).

c. The department will comply with the responsibilities set out in Iowa Code section 256.7(32)*"b."*

15.10(3) *Accreditation criteria.* All online courses and programs shall meet existing accreditation standards.

15.10(4) *Prohibited activities.* A rebate for tuition or fees paid or any other dividend or bonus moneys for enrollment of a child shall not be offered or provided directly or indirectly by a school district, school, or private provider to the parent or guardian of a pupil who enrolls in a school district or school to receive educational instruction and course content delivered primarily over the Internet.

15.10(5) *Rules of construction.*

a. Nothing in this chapter will be construed to require a school district, accredited nonpublic school, or AEA to use a particular assessment, curricular material, online learning platform, provider, or textbook.

b. Unless otherwise prescribed by a state or federal law protecting students with disabilities, or in accordance with a proclamation of public health disaster emergency issued by the governor pursuant to Iowa Code section 29C.6, nothing in this chapter will be construed to require a school district or accredited nonpublic school to offer continuous remote learning, to maintain a program of continuous remote learning, to deliver instruction primarily over the Internet, to continue delivering instruction primarily over the Internet, or to become or remain an approved provider of online learning.

c. Schools may use virtual learning or online learning for days of inclement weather to count toward the minimum school calendar to the extent permitted by the Iowa Code.

d. The Iowa learning online (ILO) initiative was repealed by 2020 Iowa Acts, chapter 1107, section 10. Any remaining references to ILO in any department policy, document, or procedure will be construed to comply with this chapter until that policy, document, or procedure is amended, corrected, rescinded, or repealed.

e. This chapter will be broadly construed to allow school districts, accredited nonpublic schools, and AEAs to meet the needs of individual students and the local community.

15.10(6) *Prohibition on offering a completely online educational program.* Unless specifically authorized by statute or by a governor's proclamation on a temporary basis, no school district, accredited nonpublic school, or AEA is authorized to provide a completely online educational program, including completely online instruction for a particular grade. All school districts, accredited nonpublic schools, and AEAs will maintain a physical presence for their educational programs.
[**ARC 7789C**, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code sections 256.7(32), 256.9(55), 256.11(17), 256.41, and 256.43.

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CHAPTER 16
STATEWIDE VOLUNTARY PRESCHOOL PROGRAM

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/31/29

281—16.1(256C) Definitions.

"Applicant" means a school district applying to become an approved local program. Only public school districts in Iowa may apply for state funds under this chapter.

"Approved local program" means the same as defined in Iowa Code section 256C.1.

"Assessment" means a systematic ongoing procedure for obtaining information from observations, interviews, portfolios, and tests that can be used to make judgments about the strengths and needs of individual children and plan appropriate instruction.

"Comprehensive services" means the provision of quality, developmentally appropriate early learning experiences consistent with age-relevant abilities or milestones; extended day child care services; developmental screenings, including health, hearing, and vision screenings; transportation; and family education and support services.

"Curriculum" means a research-based or evidence-based written framework that is comprehensive, addresses the needs of the whole child, and provides a guide for decision making about content, instructional methods, and assessment.

"Department" means the same as defined in Iowa Code section 256C.1.

"Developmentally appropriate" means practices that are based upon knowledge of how children develop and learn and that are responsive to the individual child's learning strengths, interests, and needs.

"Director" means the same as defined in Iowa Code section 256C.1.

"Eligible child" means the same as defined in Iowa Code section 256C.3(1).

"Family education and support" means any developmentally appropriate activity or information, provided either formally or informally to parents, that supports the success of children and their families to reach desired results.

"Paraeducator" means a certified educational assistant as defined in Iowa Code section 272.1(7) and licensed under 282—Chapter 24.

"Prekindergarten program" means an education program offered by a school district or by an accredited nonpublic school as defined in 281—Chapter 12.

"Preschool budget enrollment" means the same as defined in Iowa Code section 256C.5.

"Preschool foundation aid" means the same as defined in Iowa Code section 256C.5.

"Preschool program" means the statewide voluntary preschool program for four-year-old children created in Iowa Code chapter 256C.

"Program standards" means the expectations for the characteristics or quality of early childhood settings, centers, and schools approved by the department, on or before January 31, 2024. Approved program standards include National Association for the Education of Young Children (NAEYC) Program Standards and Accreditation Criteria, Head Start Program Performance Standards, the Iowa Quality Preschool Program Standards (QPPS) and Criteria, or other approved program standards as determined by the department.

"School district" means the same as defined in Iowa Code section 257.2.

"Staff member" means an individual who implements preschool activities under the direct supervision of a teacher. Staff members include paraeducators, teacher aides and teacher associates. All staff members are to meet the program standards defined herein.

"Teacher" means an individual who holds a valid practitioner's license issued by the board of educational examiners under Iowa Code chapter 272 and holds an endorsement from the board of educational examiners that includes prekindergarten or kindergarten. There is no obligation that the teacher be an employee of the applicant district; the teacher may be employed by a private provider or other public agency with which the district has entered into an agreement or contract under Iowa Code chapter 28E.

[**ARC 7421C**, IAB 12/27/23, effective 1/31/24]

281—16.2(256C) Preschool program standards. Approved program standards include Head Start Program Performance Standards, Iowa Quality Preschool Program Standards and Criteria, or the NAEYC Program Standards and Accreditation Criteria. All approved local preschool programs adopt preschool program standards and meet the following criteria:

16.2(1) *Personnel.* A minimum of one teacher is present with eligible children during the voluntary preschool program instructional time.

16.2(2) *Ratio of staff to children.* At least one teacher is present in a classroom during the instructional time described in subrule 16.2(4). A minimum of one staff member and one teacher are present when 11 to 20 children are present. Staff members and teachers have reasonable line-of-sight supervision of all children.

16.2(3) *Maximum class size.* There are no more than 20 children per classroom.

16.2(4) *Instructional time.* Eligible children receive instructional time as established by Iowa Code section 256C.3(3)*"f"* that meets the needs of the child and is directly related to the program's curriculum, such time to be exclusive of recess.

16.2(5) *Child learning standards.* The preschool program demonstrates how the curriculum, assessment, staff development, and instructional strategies are aligned to the Iowa Early Learning Standards, adopted on or before January 31, 2024. The teacher provides instruction on the skills and knowledge included in the Iowa Early Learning Standards.

16.2(6) *Curriculum.* The preschool program adopts a research-based or evidence-based curriculum.

16.2(7) *Assessment.* The preschool program adopts a research-based or evidence-based assessment to provide information on children's learning and development.

16.2(8) *Staff development.* The school district complies with Iowa Code section 256C.3(4)*"d."* The district makes available to any teacher of a statewide voluntary preschool program who is not employed by the district staff development that the district offers to the district's personnel to maintain the skills appropriate to the teacher's role. The school district ensures that staff members for the program are provided appropriate staff development in early childhood education.

16.2(9) *Space.* The preschool program provides adequate and appropriate space and facilities in accordance with program standards.

16.2(10) *Materials.* The preschool program provides instructional materials and supplies consistent with the program standards and Iowa Early Learning Standards.

16.2(11) *Meals.* The preschool program provides adequate and appropriate meals or snacks in accordance with program standards.

16.2(12) *Parent involvement.* The preschool program involves families through at least one home visit by the licensed teacher of the child, one family night, and at least two family-teacher conferences per year. Family involvement may include volunteering in the classroom, orientation to the preschool program, parent education, general communications, or other activities.

16.2(13) *Integration of other preschool programs.* The preschool program complies with Iowa Code section 256C.3(3)*"d."*

16.2(14) *Comprehensive services.* The preschool program may collaborate with other agencies for the provision of the following:

a. Quality, developmentally appropriate early learning experiences;

b. Extended day child care;

c. Transportation;

d. Developmental screening, including health, hearing, and vision screening;

e. Referral to other agencies providing health insurance, health care, immunizations, nutrition services, and mental health and oral health services; and

f. Family education and support.

[**ARC 7421C**, IAB 12/27/23, effective 1/31/24]

281—16.3(256C) Collaboration.

16.3(1) *Teachers.* The teacher complies with Iowa Code section 256C.3(2)*"b."*

16.3(2) *Programs.* The program complies with Iowa Code section 256C.3(3)*"e."* In doing so, the program makes available resources, including those described in subrule 16.2(14), necessary to meet the

needs of the child. Preschool programs collaborate to ensure that children receiving care from other approved child care arrangements can participate in the voluntary preschool program with minimal disruptions to the child.

16.3(3) *Districts.* The school district complies with Iowa Code section 256C.3(4)*"a"* and *"b."*

[**ARC 7421C**, IAB 12/27/23, effective 1/31/24]

281—16.4(256C) Applications for funding. All applications are submitted in a manner directed by the department; address the standards found in rules 281—16.2(256C), 281—16.3(256C), and 281—16.9(256C); and contain a plan describing how they will fully meet the program standards within one year of the funding award. Points are awarded based on the applicant's provision of the following information:

1. Preschool program summary;
2. Research documentation;
3. Identification and documentation of local population;
4. Needs assessment of local programs providing services;
5. Evidence of collaboration with local agencies to provide comprehensive services; and
6. Letters of community support.

[**ARC 7421C**, IAB 12/27/23, effective 1/31/24]

281—16.5(256C) Application process.

16.5(1) *Request for applications.*

a. The department announces the commencement of the application period through public notice on the department's website and the department's relevant regular electronic publications.

b. Applications for preschool program funding are available on the department's website and otherwise distributed by the department upon request.

c. All applications are to be submitted to the department in accordance with instructions accompanying the applications.

16.5(2) *Application process.*

a. Applications that do not contain the specified information or that are not received by the specified date will not be considered.

b. The department has the final discretion to award funds.

16.5(3) *Notification of applicants.* The department notifies all applicants within 45 days following the due date for receipt of applications whether their requests are funded. The department is to provide to each successful applicant a contract to be signed by an official with authority to bind the applicant and to be returned to the department prior to the distribution of any funds under this program.

[**ARC 7421C**, IAB 12/27/23, effective 1/31/24]

281—16.6(256C) Removal of approval.

16.6(1) *Removal by agreement.* The contract may be terminated in whole or in part when both parties agree that the continuation of the project would not produce beneficial results commensurate with the future expenditure of funds. The parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The applicant does not incur new obligations for the terminated portion after the effective date and will cancel as many outstanding obligations as possible.

16.6(2) *Department removal for cause.*

a. The department may remove approval in whole or in part at any time before the date of completion whenever it is determined by the department that the applicant has failed to comply substantially with the conditions of the contract. The applicant will be notified in writing by the department of the reasons for the removal of approval and the effective date. The applicant does not incur new obligations for the portion for which approval is removed after the effective date of removal and will cancel as many outstanding obligations as possible.

b. The department may remove approval in whole or in part by June 30 of the current fiscal year in the event that the applicant has not attained the program standards.

16.6(3) *Responsibility of applicant after removal of approval.* Within 45 days of the removal of approval, the applicant will supply the department with a financial statement detailing all costs incurred up to the effective date of the removal. If the applicant expends moneys for other than specified budget items approved by the department, the applicant will return moneys for unapproved expenditures.
[**ARC 7421C**, IAB 12/27/23, effective 1/31/24]

281—16.7(256C) Appeal of application denial, termination, or removal of approval. Any applicant may appeal to the director of the department the denial of a properly submitted preschool program funding application or the unilateral termination or removal of an approval. The jurisdictional criteria and procedures found in 281—Chapter 7 apply to any appeal of denial.
[**ARC 7421C**, IAB 12/27/23, effective 1/31/24]

281—16.8(256C) Finance.

16.8(1) *General.* The department implements Iowa Code sections 256C.4 and 256C.5.

16.8(2) *Aid payments.* Preschool foundation aid is paid as part of the state aid payments made to school districts in accordance with Iowa Code section 257.16, except that it is not necessary that an eligible child be a resident of the district in which the child is enrolled voluntarily in the approved local program.

16.8(3) *Separate accounting.* All state funding received under this program is accounted for by the applicant district separately from other state aid payments.

16.8(4) *Restriction on supplanting.* State funding received under this program is used to supplement, not supplant, other public funding received by the applicant district as the result of the participation of any eligible children in other state or federal funded preschool programs. This restriction is applicable only for costs related to instructional time as described in subrule 16.2(4).

16.8(5) *Transportation.* Children participating in preschool in an approved local program under Iowa Code chapter 256C may be provided transportation services. However, transportation services provided to such children are not eligible for reimbursement under this chapter.

16.8(6) *Open enrollment not applicable.* Iowa's open enrollment statute (Iowa Code section 282.18) is not applicable for the parent or guardian of an eligible child who desires to access an approved program in a school district not of the child's residence. Approved programs are open to all eligible Iowa children, regardless of a child's district of residence. Accordingly, it is neither necessary for a parent or guardian to file an open enrollment application, nor will open enrollment applications for approved preschool programs be allowed. Participation in an approved program in a school district not of the child's residence does not create an entitlement to continuous open enrollment under Iowa Code section 282.18.
[**ARC 7421C**, IAB 12/27/23, effective 1/31/24]

281—16.9(256C) Accountability. An approved local program meets the minimum program specifications in this chapter. The department encourages approved local programs to exceed the minimum standards as programs work toward ongoing improvement. The department monitors each local program's compliance with this rule.

16.9(1) *Annual reports.* Each approved local program provides, on forms provided by the department, an annual report to the department regarding program specifications. Failure to submit an annual report by the date specified therein results in suspension of financial payments to the applicant until such time as the report is received by the department.

16.9(2) *Performance measures.* The approved local program collects data on all of the following:

a. The number of eligible children participating in the preschool program.

b. The number of eligible children participating in a program that meets the criteria of NAEYC, Head Start, or QPPS Standards and Criteria.

c. The curriculum.

d. The assessment as defined in rule 281—16.1(256C).

e. The number of teachers.

f. The kindergarten literacy assessment as defined in Iowa Code section 279.60.

16.9(3) *Noncompliance with program specifications.* If the department determines that a participating district does not meet one or more of the accountability specifications provided in rule 281—16.2(256C),

the department informs the school district of appropriate actions to be taken by the school district. The school district submits an action plan that is approved by the department and contains reasonable timelines for coming into compliance. The department will facilitate technical assistance when requested. If the department determines that the school district is not taking the necessary actions in a timely manner, the director removes approval and terminates the school district's contract as provided in subrule 16.6(2). Until such time as the school district's contract is terminated, the school district may continue to participate in the statewide voluntary preschool program.

16.9(4) *Monitoring.* The department develops a monitoring system based on the annual reporting and performance measures described in this rule to be implemented no later than one year after funding is first provided under this chapter. The monitoring system ensures that programs meet the provisions herein requiring a properly licensed teacher and adoption of program standards and is designed to follow the academic progress of children who voluntarily participate in the statewide preschool program as the children progress through elementary and secondary grade levels. If feasible, it is the intent of the department to include postsecondary monitoring of such children.

[**ARC 7421C**, IAB 12/27/23, effective 1/31/24]

These rules are intended to implement Iowa Code chapter 256C.

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CHAPTER 17
OPEN ENROLLMENT AND OTHER ENROLLMENT OPTIONS

Chapter rescission date pursuant to Iowa Code section 17A.7: 5/22/29

DIVISION I
OPEN ENROLLMENT

281—17.1(282) Definitions. For the purpose of this chapter, the indicated terms are defined as follows:

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

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

"Court-ordered desegregation plan" means a decree, judgment, or order entered by a court in response to a case or controversy alleging the district engaged in unlawful segregation. A desegregation plan is not "court-ordered" merely because a school district seeks approval of a voluntarily developed desegregation plan.

"Department" means the department of education.

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

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

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

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

"Sending district" is synonymous with the term resident district.

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

[**ARC 7786C**, IAB 4/17/24, effective 5/22/24]

281—17.2(282) Application process. The following procedure is to be used by parents/guardians and school districts in processing open enrollment applications.

17.2(1) *Parent/guardian responsibilities.* Iowa Code section 282.18 governs the application process and responsibilities for parents/guardians and school districts. An application completed and submitted under this chapter will include all information set forth in, and within the timelines provided by, Iowa Code section 282.18(2)*"a."*

17.2(2) *Petition for attendance in an alternative receiving district.* Once the pupil of a parent/guardian has been accepted for open enrollment, attendance in an alternative receiving district under open enrollment can be initiated by filing a petition for change with the receiving district. The timelines and notification provisions for such a request are the same as outlined in subrule 17.2(3).

17.2(3) *School district responsibilities.*

a. The board of the resident district takes no action on an open enrollment request except for a request made under rule 281—17.3(282). The parent/guardian may withdraw an open enrollment request any time prior to the board's action on the application.

b. The board of the receiving district will act on an open enrollment request as outlined in Iowa Code section 282.18(2)*"b."*

c. The board of the receiving district will comply with the provisions of rule 281—17.10(282) if the application for open enrollment is for a pupil requiring special education as provided by Iowa Code chapter 256B.

d. If the application is a request to attend in an alternate receiving district, the alternative district will send notice of this action to the parent/guardian, to the original receiving district, and to the resident district of the pupil. Petitions for change will be for not less than one year. A pupil in good standing may return to the district of residence at any time following written notice from the parent/guardian to both the resident district and the receiving district.

e. Notification to parents.

(1) By September 30 of each school year, all districts must notify parents of the following:

1. Transportation assistance; and
2. Possible loss of athletic eligibility for open enrollment pupils.

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

17.2(4) *Exception to process when resident district is under court-ordered desegregation.* If the resident district has a court-ordered desegregation plan, the superintendent of the resident district may act upon the request for transfer as outlined in Iowa Code section 282.18(3)*"a."* A denial by the superintendent may be appealed following the procedures outlined in Iowa Code section 282.18(3)*"b."*

[**ARC 7786C**, IAB 4/17/24, effective 5/22/24; **ARC 9101C**, IAB 4/16/25, effective 5/21/25]

281—17.3(282) Court-ordered desegregation plans.

17.3(1) *Applicability.* These rules govern only the components of a court-ordered desegregation plan as the plan affects open enrollment requests.

17.3(2) *Nature of court-ordered desegregation plan.* The language of the court order outlines a district's implementation of open enrollment. The district will notify the department of any court-ordered desegregation plan and any court-ordered modifications to that plan.

[**ARC 7786C**, IAB 4/17/24, effective 5/22/24]

281—17.4(282) Open enrollment for kindergarten or certain prekindergarten programs. A parent/guardian of a kindergarten pupil or a parent/guardian of a prekindergarten student enrolled in a special education program and eligible to be included in the resident school district's basic enrollment under Iowa Code section 257.6(1)*"a"*(1) may request to enroll the pupil or student in a district other than the district of residence. In considering an application under this rule, the resident and the receiving district are not precluded from administering board-adopted policies related to insufficient classroom space, the provisions of rule 281—17.11(282), or the provisions of a desegregation order. As an alternative procedure, the receiving board may, by policy, authorize the superintendent to approve, but not deny, applications filed under this rule.

[**ARC 7786C**, IAB 4/17/24, effective 5/22/24]

281—17.5(282) Open enrollment and online coursework.

17.5(1) *General.* A school district may provide courses developed by private providers and delivered primarily over the Internet to pupils who are participating in open enrollment under Iowa Code section 282.18. However, if a student's participation in open enrollment to receive educational instruction and course content delivered primarily over the Internet results in the termination of enrollment in the receiving district, the receiving district will, within 30 days of the termination, notify the district of residence of the termination and the date of the termination.

17.5(2) *Participation in activities in the resident district.* A pupil participating in open enrollment for purposes of receiving educational instruction and course content primarily over the Internet in accordance with Iowa Code section 256.7(32) may participate in any cocurricular or extracurricular activities offered to children in the pupil's grade or group and sponsored by the district of residence under the same conditions and requirements as the pupils enrolled in the district of residence. The pupil may participate in not more than two cocurricular or extracurricular activities during a school year unless the resident district approves

the student's participation in additional activities. The student will comply with the eligibility, conduct, and other requirements relating to the activity that are established by the district of residence for any student who applies to participate or who is participating in the activity.
[**ARC 7786C**, IAB 4/17/24, effective 5/22/24]

281—17.6(282) Limitations on open enrollment requests. A district board may apply the following provisions related to open enrollment requests:

17.6(1) *Court-ordered desegregation plans.* If the resident district has a court-ordered desegregation plan, the superintendent of the resident district may act upon the request for transfer as outlined in Iowa Code section 282.18(3)*"a."* A denial by the superintendent may be appealed following the procedures outlined in Iowa Code section 282.18(3)*"b."*

17.6(2) *Policy on insufficient classroom space.* No receiving district is required to accept an open enrollment request if it has insufficient classroom space to accommodate the pupil(s). Each district board must adopt a policy which defines the term "insufficient classroom space" for that district. This policy will establish a basis for the district to make determinations on the acceptance or denial, as a receiving district, of an open enrollment request. This policy may include, but is not limited to, one or more of the following: nature of the educational program, grade level, available instructional staff, instructional method, physical space, pupil-teacher ratio, equipment and materials, facilities either being planned or under construction, facilities planned to be closed, finances available, sharing agreement in force or planned, bargaining agreement in force, special education class size or caseload established pursuant to rule 281—41.408(256B,273,34CFR300), or board-adopted district educational goals and objectives. This policy will be reviewed annually by the district board.

17.6(3) *Designation of attendance center.* The right of a parent/guardian to request open enrollment is to a district other than the district of residence, not to an attendance center within the nonresident district. In accepting an open enrollment pupil, the receiving district board has the same authority it has in regard to its resident pupils as provided by Iowa Code section 279.11, to "determine the particular school which each child shall attend." In the application process, however, the parent or guardian may request an attendance center of preference.

17.6(4) *Expelled or suspended students.* A pupil who has been suspended or expelled by action of the administration or board of the resident district is not permitted to enroll if an open enrollment request is filed until the pupil is reinstated for school attendance in the resident district. Once reinstated, the application for open enrollment will be considered in the same manner as any other open enrollment request. If a pupil for whom an open enrollment request has been filed is subsequently expelled by action of the resident district board, the pupil may be denied enrollment by the receiving district board until the pupil is reinstated for school attendance by the resident district. The provisions of this subrule also apply to a pupil who has been suspended or expelled in a receiving district and is requesting open enrollment to an alternative receiving district or is seeking to return to the resident district as outlined in subrule 17.2(3).

17.6(5) *Participation in interscholastic athletic contests and competitions.* A student in grades 9 through 12 whose transfer of schools had occurred due to a request for open enrollment by the student's parent or guardian is ineligible to compete in interscholastic athletics during the first 90 school days of transfer except that a student may participate immediately if the student is entering grade 9 for the first time and did not participate in an interscholastic athletic competition for another school during the summer immediately following eighth grade. The period of ineligibility applies only to varsity-level contests and competitions. ("Varsity" means the highest level of competition offered by one school or school district against the highest level of competition offered by an opposing school or school district.) If a pupil is declared ineligible for interscholastic athletic contests and athletic competitions in the pupil's district of residence due to the pupil's academic performance, upon participating in open enrollment, in addition to any other period of ineligibility under this rule, the pupil will be ineligible in the receiving district for the remaining period of ineligibility declared by the district of residence.

a. The period of ineligibility does not apply if the board of directors of the district of residence and the board of directors of the receiving district both agree to waive the ineligibility period or under any reason outlined in Iowa Code section 282.18(9).

b. The resident district may charge the receiving district for participation in cocurricular or extracurricular activities in accordance with Iowa Code section 282.18(5).

17.6(6) *Failure to meet deadlines in subrule 17.2(1).* Iowa Code section 282.18(3A) and 282.18(3B) govern applications that do not meet the applicable deadlines in subrule 17.2(1).

17.6(7) *Determination of truancy by receiving district.* Iowa Code section 282.18(11A) governs circumstances where the receiving district determines a student participating in open enrollment is "truant" as defined by Iowa Code section 299.8.

[**ARC 7786C**, IAB 4/17/24, effective 5/22/24; **ARC 9101C**, IAB 4/16/25, effective 5/21/25]

281—17.7(282) Provisions applicable to parents/guardians and students.

17.7(1) *Renewal of an open enrollment agreement.* An open enrollment agreement remains in place unless canceled by the parent/guardian or terminated as outlined in the provisions of subrule 17.7(5).

17.7(2) *Change in residence when participating in open enrollment.* If the parent/guardian of a pupil who is participating in open enrollment changes the school district of residence during the term of the agreement, the parent/guardian has the option to leave the pupil in the receiving district under open enrollment or to enroll the pupil in the new district of residence, thus terminating the open enrollment agreement.

If the pupil is to remain under open enrollment or to open enroll to another school district, the parent/guardian will write a letter, delivered by mail, by hand, or by electronic means, to notify the original resident district, the new resident district, and the receiving district of this decision. Requests under this rule shall not be denied. If the request is for a high school pupil, the pupil is not subject to the initial 90-school-day ineligibility period of subrule 17.6(5).

17.7(3) *Change in residence when not participating in open enrollment.* If a parent/guardian moves out of the school district of residence, and the pupil is not currently under open enrollment, the parent/guardian has the option for the pupil to remain in the original district of residence as an open enrollment pupil with no interruption in the education program. The parent/guardian exercising this option will file an open enrollment request form with the new district of residence for processing and record purposes. Requests under this subrule shall not be denied. If the request is for a high school pupil, the pupil is not subject to the initial 90-school-day ineligibility period of subrule 17.6(5). If the move is on or after the date specified in Iowa Code section 257.6(1), the new district of residence is not required to pay per-pupil costs or applicable weighting or special education costs to the receiving district until the first full year of the open enrollment.

a. This subrule applies in the following circumstances: a change in family residence, a change in a child's residence from the residence of one parent or guardian to the residence of a different parent or guardian, a change in the state in which the family residence is located, a change in a child's parents' marital status, a guardianship proceeding, placement in foster care, adoption, participation in a foreign exchange program, or participation in a substance abuse or mental health treatment program.

b. This rule applies to the following children:

(1) A child who is enrolled in any grade from kindergarten through grade 12.

(2) A prekindergarten student who is enrolled in a special education program at the time of the request and is not currently using any provision of open enrollment.

17.7(4) *Pupil governance.* An open enrollment pupil and, where applicable, the pupil's parent/guardian is governed by the rules and policies established by the board of directors of the receiving district. Any complaint or appeal by the parent/guardian concerning the educational system, its process, or administration in the receiving district will be initially directed to the board of directors of that district in compliance with the policy of that district.

17.7(5) *Open enrollment termination.* Open enrollment ends when:

a. The pupil graduates, moves into the receiving district, moves into a third district and does not elect to continue attending in the receiving district, moves out of state, elects to attend a nonpublic school instead of the receiving district, or any other circumstance not excepted below that results in the pupil no longer attending the receiving district.

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

b. The pupil drops out of school. In this instance, if the pupil desires to return to the resident district during the term of the original open enrollment, notice will be given as outlined in the provisions of subrule 17.2(3).

[**ARC 7786C**, IAB 4/17/24, effective 5/22/24]

281—17.8(282) Transportation.

17.8(1) *Parent responsibilities.* The parent/guardian of a pupil who has been accepted for open enrollment is to be responsible to transport the pupil without reimbursement, except as provided in subrule 17.8(2), to a point on a regular school bus route of the receiving district as defined in Iowa Code section 282.18(8)*"a."* A receiving district may send buses into a resident district solely for the purpose of transporting an open enrollment pupil if the boards of both the sending and receiving districts agree to this arrangement. Bus routes that are outside the boundary of the receiving district that have been authorized by an area education agency board of directors, as provided by Iowa Code section 285.9(3), may be used to transport open enrollment pupils if boards of directors of the resident and receiving districts have both acted to approve such an arrangement. Bus routes that have been established by the receiving district for the purpose of transporting nonpublic school or special education pupils that operate in the resident district of an open enrollment pupil cannot be utilized for the transportation of such pupil for the portion of the route that is within the resident district unless the boards of directors of the resident and receiving districts have both acted to approve such an arrangement. Bus routes transporting pupils for the purpose of whole-grade sharing cannot be used to transport open enrollment pupils for the portion of the route that is within the resident district unless the boards of directors of the resident and receiving districts have both acted to approve such an arrangement.

17.8(2) *Economic qualifications, eligibility and provisions for transportation assistance.* Open enrollment pupils who meet the economic eligibility provisions established by the department of education will receive transportation assistance from their resident district under the terms and conditions established by the department and state board of education as outlined in Iowa Code section 282.18(8)*"c."* The resident district may withhold from the amount it is required to pay to a receiving district for an open enrollment pupil the actual amount or the average cost per pupil transported amount it pays for transportation assistance, whichever is the lesser amount. A sending district shall not be responsible for paying a parent or guardian pursuant to this subrule if the pupil is transported by the receiving district to and from school in the receiving district pursuant to subrule 17.8(3).

17.8(3) *Exception to subrule 17.8(1).* The provisions about transportation in another district provided by subrule 17.8(1) are subject to the exceptions contained in Iowa Code section 282.18(8)*"b"* and *"c."*

[**ARC 7786C**, IAB 4/17/24, effective 5/22/24; **ARC 9101C**, IAB 4/16/25, effective 5/21/25]

281—17.9(282) Method of finance. Open enrollment options are available for pupils at no instructional cost to their parents/guardians. Open enrollment pupils are considered enrolled resident pupils in the resident district and are included in the certified enrollment count of that district for the purposes of generating school foundation aid.

17.9(1) *Full-time pupils.* The resident district will pay each year to the receiving district an amount equal to the sum of the state cost per pupil for the previous year; plus any moneys received pursuant to Iowa Code section 282.18(7)*"b"*(1). If the pupil participating in open enrollment is also an eligible pupil under Iowa Code section 261E.6 (postsecondary enrollment options program), the receiving district will pay the tuition reimbursement amount to an eligible postsecondary institution as provided in Iowa Code section 261E.7.

17.9(2) *Dual enrolled pupils.* For pupils who receive competent private instruction and are dual enrolled, the resident district will pay each year to the receiving district an amount equal to 0.1 times the state cost per pupil for the previous year plus any moneys received for the pupil as a result of English learner weighting provided by Iowa Code section 280.4. However, a pupil dual enrolled in grades 9 through

12 will be counted by the receiving district in the same manner as a shared-time pupil under Iowa Code section 257.6(1)*"c."*

17.9(3) *Home school assistance program pupils.* For pupils who receive competent private instruction and are registered for a home school assistance program, the resident district will pay each year to the receiving district an amount equal to 0.3 times the state cost per pupil under Iowa Code chapter 257 for the previous year plus any moneys received for the pupil as a result of English learner weighting provided by Iowa Code section 280.4.

17.9(4) *Transportation assistance.* The resident district may deduct any transportation assistance funds for which the pupil is eligible as provided by subrule 17.8(2).

17.9(5) *Method of payment.* These moneys will be paid to the receiving district by the resident district during the period of open enrollment according to the timeline in Iowa Code section 282.20(3). The district cost per pupil for nonspecial education students will be the cost calculated each year for the school year preceding the school year for which the open enrollment takes place. Costs for special education students are outlined in rule 281—17.10(282).

17.9(6) *Partial-year situations.* If a pupil participating in open enrollment attends school in the receiving district for any reason for less than a full school year, payment from the district of residence at the time of open enrollment to the receiving district is prorated on a per diem basis.

17.9(7) *Supplemental weighting.* A student under open enrollment is eligible to be counted for supplementary weighting pursuant to 281—Chapter 97 for qualifying concurrent enrollment classes in which the student is enrolled, including concurrent enrollment classes provided via the Iowa communications network (ICN), or supplementary weighting for project lead the way (PLTW) enrollment through sharing with a community college. An open enrolled student who is under competent private instruction (CPI) will be weighted in the student's receiving district, and no tuition will be billed to the resident district. An open enrolled student who is not under CPI will be weighted in the resident district, and the funding will be sent to the receiving district in addition to open enrollment tuition.

a. If the open enrolled student is present in the resident district on October 1 of the school year, the resident district will count the student, excluding a student under CPI, for supplementary weighting.

b. The concurrent enrollment course needs to qualify for supplementary weighting in the receiving district pursuant to 281—Chapter 97, and the PLTW course needs to qualify for supplementary weighting in the receiving district pursuant to the same chapter.

c. The resident district will forward the weighting generated for the concurrent or PLTW enrollment for that student using the district cost per pupil of the school year. The amount generated is calculated as the supplementary weighting full-time-equivalency for that one student for each qualified concurrent or PLTW enrollment course multiplied by the current school year's district cost per pupil in the resident district.

d. The receiving district will pay the community college the tuition negotiated for the course. The tuition negotiated may cost the receiving district a different amount than that received from the resident district. No additional amount may be charged to the resident district, the student, or the parent, guardian, or legal custodian.

[**ARC 7786C**, IAB 4/17/24, effective 5/22/24]

281—17.10(282) Special education students. If a parent or guardian requests open enrollment for a pupil requiring special education, as provided by Iowa Code chapter 256B and 281—Chapter 41, this request will receive consideration under the following conditions.

17.10(1) *Appropriateness of program.* The request will be granted only if the receiving district is able to provide within that district the appropriate special education program for that student in accordance with 281—Chapter 41. This determination will be made by the receiving district in consultation with the resident district and the appropriate area education agency(ies) before approval of the application. In a situation where the appropriateness of the program is in question, the pupil will remain enrolled in the program of the resident district until a final determination is made, unless all parties otherwise agree, as provided in 281—Chapter 41. If the appropriateness of the special education program in the receiving district is at issue, the final determination of the appropriateness of a special education instructional program will be the responsibility of the child's individualized education program team, which must

include a representative from the resident district that has the authority to commit district resources, and which decision is subject to the parent's procedural safeguards under 281—Chapter 41.

17.10(2) *Class size and caseload.* The provisions of subrule 17.6(2) apply to requests for open enrollment for a child with a disability. The following conditions apply:

a. The enrollment of the child in the receiving district's program would not cause the size of the class or caseload in that special education instructional program in the receiving district to exceed the maximum class size or caseload set forth in subrule 17.6(2).

b. If the child would be assigned to a general education class, there is sufficient classroom space, as established in subrule 17.6(2), for the general education class to which the child would be assigned.

17.10(3) *Transportation.* District transportation requirements, parent/guardian responsibilities and, where applicable, financial assistance for an open enrollment special education pupil is available as provided by rules 281—17.8(282) and 281—41.412(256B,34CFR300).

17.10(4) *Finance.* The district of residence, as determined on the date specified in Iowa Code section 257.6(1), will pay according to the timeline in Iowa Code section 282.20(3) to the receiving district the actual costs incurred by the receiving district in providing the appropriate special education program. These costs will be based on the current year expenditures with needed adjustments made in the final payment. The responsibility for ensuring that an appropriate program is maintained for an open enrollment special education pupil rests with the resident district. The receiving district and the receiving area education agency director will provide, at least on an annual basis, evaluation reports and information to the resident district on each special education open enrollment pupil. The receiving district will provide notice to the resident district of all staffings scheduled for each open enrollment pupil. For an open enrolled special education pupil where the receiving district is located in an area education agency other than the area education agency within which the resident district is located, the resident district and the receiving district are to forward a copy of any approved open enrollment request to the director of special education of their respective area education agencies. Any moneys received by the area education agency of the resident district for an approved open enrollment special education pupil will be forwarded to the receiving district's area education agency. For children requiring special education, the receiving district will complete and provide to the district of residence the documentation necessary to seek Medicaid reimbursement for eligible services.

[**ARC 7786C**, IAB 4/17/24, effective 5/22/24]

This division is intended to implement Iowa Code section 282.18.

DIVISION II
INTRA-DISTRICT SCHOOL CHOICE UNDER IOWA LAW

281—17.11(279) General. Subject to Iowa Code section 279.82, a school district may permit parents or guardians of students to transfer to other attendance centers operated by the district. Such transfers are at the discretion of the district, subject to terms that the district adopts.

[**ARC 7786C**, IAB 4/17/24, effective 5/22/24]

281—17.12(279) Intra-district transfers due to bullying and harassment. If a school district determines that a student has been bullied or harassed, then the school will permit the student to transfer under the provisions of Iowa Code section 279.82. For purposes of this rule, "harassment" and "bullying" mean the same as defined in Iowa Code section 280.28. Subrule 17.6(2) and rule 281—17.10(282) apply to transfers under this rule. A student who is enrolled in another attendance center within the same school district pursuant to this rule is eligible to participate immediately in varsity interscholastic athletic contests and athletic competitions as a member of a team from the receiving attendance center, notwithstanding any local policy on intra-district transfers and athletic eligibility.

[**ARC 7786C**, IAB 4/17/24, effective 5/22/24]

This division is intended to implement Iowa Code section 279.82.

DIVISION III
UNSAFE SCHOOL CHOICE OPTION UNDER FEDERAL LAW

281—17.13(20USC7912) Definitions. For purposes of this division, the following definitions apply:

"Department" means the Iowa department of education.

"Forcible felony" means any crime defined in Iowa Code section 702.11. This includes felonious child endangerment, assault, murder, sexual abuse, kidnapping, robbery, arson in the first degree, or burglary in the first degree. Forcible felonies are not willful injury in violation of Iowa Code section 708.4(2); sexual abuse in the third degree committed between spouses; sexual abuse in violation of Iowa Code section 709.4(2)*"c"*(4); or sexual exploitation by a counselor or therapist in violation of Iowa Code section 709.15.

"School" means an attendance center within a school district.

"School district" means a public school district in Iowa.

"School year" means from July 1 until June 30 of the following year.

[**ARC 7786C**, IAB 4/17/24, effective 5/22/24; Editorial change: IAC Supplement 10/16/24]

281—17.14(20USC7912) Whole school option. Any student attending a persistently dangerous school as defined in this rule is eligible to transfer to a different school within the district. Transportation for students electing to transfer will be provided according to the district's transportation policy. The transfers may be temporary or permanent, but will be in effect as long as the student's original school is identified as persistently dangerous.

In making the determination of whether a transfer should be temporary or permanent, the district will consider the educational needs of the student, as well as other factors affecting the student's ability to succeed in the student's new school environment. The district is encouraged to explore other appropriate options such as an agreement with a contiguous school district to accept students if there is no safe school within the transferring district.

17.14(1) A persistently dangerous school is one that meets the following criteria for three consecutive school years:

a. The school has violence-related, long-term suspensions or expulsions for more than 1 percent of the student population. Long-term suspensions or expulsions are more than ten days in length and require the action of the local school board. For purposes of this subrule, a violence-related, long-term suspension or expulsion occurs as a result of physical injury or the threat of physical injury to a student while the student is in the school building or on the grounds of the attendance center during the hours of the regular school day or while the student is in attendance at school-sponsored activities that occur during the hours before or after the regular school day under one of the following:

(1) A forcible felony as defined in rule 281—17.13(20USC7912);

(2) Offenses, excluding simple misdemeanors, involving physical assault under Iowa Code chapter 708;

(3) Offenses, excluding simple misdemeanors, involving sexual assault under Iowa Code chapter 709;

(4) Extortion under Iowa Code section 711.4;

(5) Use of incendiary or explosive devices such as bombs under Iowa Code section 712.5;

(6) Criminal gang activity under Iowa Code chapter 723A;

(7) Carrying or using a weapon under Iowa Code sections 724.3 and 724.4.

b. The school has two or more students expelled for violating the federal gun-free school laws.

c. The school has 1 percent of the enrolled student population or five students, whichever is greater, who exercised the individual student option defined in rule 281—17.15(20USC7912).

17.14(2) For the school year starting July 1, 2003, and in the years thereafter, a school identified as meeting the criteria in paragraphs 17.14(1)*"a"* through *"c"* for one year will be given a warning by the department. The school will review the school's safety plan and prevention activities.

17.14(3) For the school year starting July 1, 2004, and in the years thereafter, a school identified as meeting the criteria in paragraphs 17.14(1)*"a"* through *"c"* for two consecutive years will develop and

implement a remedial plan. The plan will include schoolwide efforts to support positive student behavior and improve student discipline. The department will conduct a site visit to the school.

17.14(4) For the school year starting July 1, 2005, and in the years thereafter, a school identified as meeting the criteria in paragraphs 17.14(1)*"a"* through *"c"* for three consecutive years is eligible to be designated as a persistently dangerous school by the department. Prior to the department's assigning the designation, the district may submit information to the department including:

a. The school's safety plan;

b. Local efforts to address the school's safety concerns;

c. The school safety data reported to the state consistent with requirements of the federal Safe and Drug-Free Schools and Communities Program;

d. More current data that the school may have available but has not yet reported; and

e. Any other information deemed relevant.

17.14(5) Within 30 days of receipt and review of the information, the department may determine that the school demonstrates improvement and may delay the designation for one year. By July 31, the department may, upon review of information that demonstrates improvement, delay the designation for one year. The department will determine whether the district has made sufficient progress to warrant further consideration as a persistently dangerous school.

17.14(6) Upon designation, the district will adopt a corrective action plan, to be approved by the department. The department will monitor the district's timely completion of the approved plan. The department will annually assess the school using the criteria listed in paragraphs 17.14(1)*"a"* through *"c"* by July 31 to determine whether the school will remain identified as a persistently dangerous school for the following school year.

17.14(7) At minimum, a district that has one or more schools identified as persistently dangerous will, within 14 days of the designation, notify parents of each student attending the school that the school has been identified by the department as persistently dangerous. The district must offer students the opportunity to transfer to a safe public school within the district; and for those students who accept the offer, the district will complete the transfer. A district may deny the transfer if space at the requested school is unavailable. A district will offer the parent other available options within the district, when available.

[**ARC 7786C**, IAB 4/17/24, effective 5/22/24]

281—17.15(20USC7912) Individual student option.

17.15(1) Any student who becomes a victim of a violent criminal offense will, to the extent feasible, be permitted to transfer to another school within the district. For purposes of this rule, a victim of a violent criminal offense is a student who is physically injured or threatened with physical injury as a result of the commission of one or more of the following crimes against the student while the student is in the school building or on the grounds of the attendance center:

a. A forcible felony as defined in rule 281—17.13(20USC7912);

b. Offenses, excluding simple misdemeanors, involving physical assault under Iowa Code chapter 708;

c. Offenses, excluding simple misdemeanors, involving sexual assault under Iowa Code chapter 709;

d. Extortion under Iowa Code section 711.4.

17.15(2) Within ten calendar days following the date of the request, a local school district will offer an opportunity to transfer to the parent/guardian of a student who meets the definition of a victim of a violent crime.

[**ARC 7786C**, IAB 4/17/24, effective 5/22/24]

281—17.16(20USC7912) District reporting. For purposes of federal compliance, districts will report data and requested information related to this division in a manner prescribed by the department.

[**ARC 7786C**, IAB 4/17/24, effective 5/22/24]

This division is intended to implement 20 U.S.C. Section 7912.

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CHAPTER 18
SCHOOL FEES

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/31/29

281—18.1(256) Overview. No Iowa student enrolled in a public school may be excluded from participation in or denied the benefits of course offerings and related activities due to the student's or the student's parent's or guardian's financial inability to pay a fee associated with the class, program, or activity.

[**ARC 7426C**, IAB 12/27/23, effective 1/31/24]

281—18.2(256) Fee policy. The board of directors (board) of a public school district (district) shall adopt a policy regarding the charging and collecting of fees for course offerings and related activities and for transportation provided to resident students who are not entitled to transportation under Iowa Code section 285.1, apply its policy to any fees charged, and develop procedures to implement its policy.

[**ARC 7426C**, IAB 12/27/23, effective 1/31/24]

281—18.3(256) Eligibility for waiver, partial waiver or temporary waiver of student fees. The policy mandated by rule 281—18.2(256) is to include provisions for granting a waiver, partial waiver, or temporary waiver of student fees upon application by the student.

18.3(1) *Waivers.* At minimum, the policy is to include the following provisions relating to eligibility for the waivers:

a. Waiver. A student is granted a waiver of all fees covered by this chapter if the student or the student's family meets the financial eligibility criteria for free meals offered under the child nutrition program, or for the family investment program (FIP), or for transportation assistance under open enrollment provided under 281—Chapter 17, or if the student is in foster care under Iowa Code chapter 232.

b. Partial waiver. A student is granted either a waiver of all student fees or a partial waiver of student fees if the student or the student's family meets the financial eligibility criteria for reduced price meals offered under the child nutrition program, based on a sliding scale related to an ability to pay.

c. Temporary waiver. At the discretion of the district, a student may be granted a temporary waiver of a fee or fees in the event of a temporary financial difficulty in the student's immediate family. A temporary waiver may be applied for and granted at any time during a school year. The maximum length of a temporary waiver is one year.

d. Fees waived not collectable. When an application for any fee waiver is granted, the fee or fees waived under the application are not collectable.

e. Distribution of policy and applications. At the time of registration or enrollment, the district distributes procedures on charging fees, a written notice of fees charged to each student, the waiver and reduction policy and procedures including income guidelines, and the application for waiver. For students or families whose primary language is other than English, the district provides a copy of the materials in the student's native language or arranges for translation of the materials within a reasonable time.

f. Annual application. The request for a fee waiver is made on application forms provided by the department of education. An application can be received at any time but may only be renewed at the beginning of the school year.

18.3(2) *Applications.* The procedures are to include a description of the confidential application process for the waiver and provide that a written decision be issued to the applicant within a reasonable time. If the application is denied, the decision will include the reason for the denial.

18.3(3) *Review and appeals.* The procedures are to include a provision for a confidential review of any denial by a person or persons designated by the board upon request and the manner in which an appeal may be taken. If the decision on review is again to deny the application, the decision maker will notify the applicant in writing that the applicant may appeal the denial to the director of the department of education by filing a notarized statement within 30 days of the applicant's receipt of the district's final decision.

[**ARC 7426C**, IAB 12/27/23, effective 1/31/24]

281—18.4(256) Fees covered. Fines assessed for damage or loss to school property are not fees and need not be waived. Nothing in this chapter authorizes the charging of a fee for which there is no authority in law.

[**ARC 7426C**, IAB 12/27/23, effective 1/31/24]

These rules are intended to implement Iowa Code section 256.7(20).

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[Filed ARC 7426C (Notice ARC 7091C, IAB 10/4/23), IAB 12/27/23, effective 1/31/24]

CHAPTER 19
CHARTER SCHOOLS

Chapter rescission date pursuant to Iowa Code section 17A.7: 11/6/29

281—19.1(256E) General. All charter schools in Iowa are a part of the state's program of public education. Charter schools established on or after July 1, 2021, are subject to Iowa Code chapter 256E and Division I of this chapter. Charter schools established prior to July 1, 2021, continue to operate under and are subject to the provisions of Iowa Code chapter 256F and Division II of this chapter. The department monitors the effectiveness of charter schools and implements the applicable provisions of this chapter.
[**ARC 8241C**, IAB 10/2/24, effective 11/6/24]

DIVISION I

CHARTER SCHOOLS ESTABLISHED ON OR AFTER JULY 1, 2021

281—19.2(256E) Establishment of charter schools. A charter school may be established by either of the following methods: a school board-state board model, pursuant to Iowa Code section 256E.4, or a founding group-state board model, pursuant to Iowa Code section 256E.5. The state board of education is the only authorizer of charter schools under this division.
[**ARC 8241C**, IAB 10/2/24, effective 11/6/24]

281—19.3(256E) Purpose of a charter school. A charter school established under this division must intend to accomplish one or more of the purposes set forth in Iowa Code section 256E.1(3).
[**ARC 8241C**, IAB 10/2/24, effective 11/6/24]

281—19.4(256E) Definitions. The definitions set forth in Iowa Code section 256E.2 apply to this division. In addition, "parent" includes a child's biological or adoptive parent, as well as anyone authorized by state or federal law or court order, judgment, or decree to make educational decisions for the child.
[**ARC 8241C**, IAB 10/2/24, effective 11/6/24]

281—19.5(256E) General application provisions. The following general application provisions apply to both the school board-state board and founding group-state board charter establishment models.

19.5(1) *Instructions.* The instructions for completing an application includes or otherwise informs applicants of the content listed in Iowa Code sections 256E.4(3) and 256E.5(3).

19.5(2) *Review.* In reviewing and evaluating charter school applications, the state board employs procedures, practices, and criteria consistent with nationally recognized principles and standards for reviewing charter school applications. Each application review includes:

a. A thorough evaluation of the written application.

b. An in-person interview with the founding group.

c. An opportunity in a public forum for local residents to learn about and provide input on each application.

19.5(3) *State board actions following review.* Following review of a charter school application and completion of the process under subrule 19.5(2), the state board does all of the following:

a. Approves a charter school application only if the founding group has demonstrated competence in each element of the approval criteria and if the founding group is likely to open and operate a successful charter school.

b. Makes application decisions on documented evidence collected through the application review process.

c. Adheres to the policies and criteria that are transparent, are based on merit, and avoid conflicts of interest or any appearance thereof.

19.5(4) *Application approval.* The state board approves a charter school application if the application satisfies this division.

a. The state board will approve or deny a charter school application no later than 75 calendar days after the application is received.

b. If the state board denies an application, the state board will provide notice of denial to the founding group in writing within 30 days after the state board's action, specifying the exact reasons for denial and providing documentation supporting those reasons.

c. An approval decision may include, if appropriate, reasonable conditions that the founding group meet before a charter school contract may be executed pursuant to Iowa Code section 256E.6.

d. An approved charter application does not serve as a charter school contract.

e. A decision of the state board relating to an application under this rule is not appealable.

f. An unsuccessful applicant under this rule may subsequently reapply to the state board.

19.5(5) *Application deadlines and timelines.* Applications submitted to the state board on or before November 1 of the preceding school year will be considered for approval for the establishment of the charter school for the next school year.

19.5(6) *Sample applications and contracts.* The department or the state board may prepare sample or template applications and contracts for the convenience of future applicants. Use of these samples or templates is encouraged.

[**ARC 8241C**, IAB 10/2/24, effective 11/6/24]

281—19.6(256E) School board-state board model. Iowa Code section 256E.4 governs charter schools founded under this model.

19.6(1) *School board-state board model application.* An application submitted under this rule includes all of the items related to the proposed charter school that are set forth in Iowa Code section 256E.4(4).

19.6(2) *Conversion of existing attendance center.* If the founding group proposes to establish a charter school by converting an existing attendance center of the school district, Iowa Code section 256E.4(5) governs such proposal.

[**ARC 8241C**, IAB 10/2/24, effective 11/6/24]

281—19.7(256E) Founding group-state board model. Iowa Code section 256E.5 governs charter schools founded under this model. An application submitted under this rule includes all of the items related to the proposed charter school that are set forth in Iowa Code section 256E.5(4).

[**ARC 8241C**, IAB 10/2/24, effective 11/6/24]

281—19.8(256E) Charter school contract. Iowa Code section 256E.6 governs contracts with approved charter schools. A contract may be amended by the founding group and the state board after the founding group complies with subrule 19.5(2) with reference to the proposed amendment.

[**ARC 8241C**, IAB 10/2/24, effective 11/6/24]

281—19.9(256E) Performance framework. The performance provisions within each charter school's contract are governed by Iowa Code section 256E.9. This framework includes the items in Iowa Code section 256E.9(1), including student academic growth and proficiency in English language arts on statewide outcome assessments, student academic growth and proficiency in mathematics on statewide outcome assessments, and conditions for learning data (as mandated by Iowa's state plan under the Every Student Succeeds Act).

[**ARC 8241C**, IAB 10/2/24, effective 11/6/24]

281—19.10(256E) General operating powers and duties. In order to fulfill the charter school's public purpose, a charter school established under this division is organized as a nonprofit education organization. It has the powers, duties, and exemptions specified in Iowa Code section 256E.7. For purposes of "applicable federal, state, and local health and safety requirements," that term includes mandatory reporting of child abuse under Iowa Code section 232.69, investigation of abuse by school employees under 281—Chapter 102, and seclusion and restraint under 281—Chapter 103.

[**ARC 8241C**, IAB 10/2/24, effective 11/6/24]

281—19.11(256E) Funding.

19.11(1) *General.* Charter school funding is governed by Iowa Code section 256E.8.

19.11(2) *Enrollment estimates.* If necessary, and pursuant to paragraph 19.11(2)*"a,"* funding amounts determined under this rule for the first school year of a new charter school are to be based on enrollment estimates for the charter school included in the charter school contract. The process set out in paragraph 19.11(2)*"b"* is to be used for determining estimated enrollments for charter school funding purposes in school years after the first year of a charter school. Amounts paid using estimated enrollments are to be reconciled during subsequent payments based on actual enrollment of the charter school during each school year pursuant to paragraph 19.11(2)*"c."*

a. Enrollment estimates for the first school year are to be based on the number of enrolled students reported to the department through the student information system by August 5 of the school year.

b. Enrollment estimates for school years following the first school year are to be based on the number of enrolled students reported to the department through the student information system by August 5 of the school year.

c. Estimated payments will be reconciled, at minimum, based on actual enrollment information reported by the charter school pursuant to Iowa Code sections 256.9(44) and 257.6.

19.11(3) *Notification to districts of residence.* For purposes of this rule, each charter school notifies the district of residence of each child in a time and manner that allow the district of residence to include the child in the district's certified enrollment and any other relevant enrollment data.

19.11(4) *Students receiving instruction over the Internet—participation in activities in district of residence.* Students receiving instruction over the Internet from a charter school authorized under this chapter are eligible to participate in activities in their resident districts under the terms of Iowa Code section 256E.13.

[**ARC 8241C**, IAB 10/2/24, effective 11/6/24]

281—19.12(256E) Oversight—corrective action—contract renewal—revocation.

19.12(1) *General.* The state board's monitoring, oversight, remedial actions, and enforcement actions (up to and including revocation) are governed by Iowa Code section 256E.10.

19.12(2) *Renewal guidance.* The state board's renewal application guidance will, at a minimum, include the criteria that will be used when assessing charter school contract renewal decisions and provide an opportunity for the charter school to:

a. Present additional evidence beyond the data contained in the performance report.

b. Describe improvements undertaken or planned for the charter school.

c. Describe the charter school's plans, including any proposed modifications, for the next charter school contract term.

19.12(3) *Revocation or nonrenewal.*

a. A charter school contract may be revoked at any time or not renewed if the state board determines that the charter school did any of the following:

(1) Committed a material violation of any of the terms, conditions, standards, or procedures under the charter school contract or this division.

(2) Failed to meet or make sufficient progress toward the performance expectations set forth in the charter school contract.

(3) Failed to meet generally accepted standards of fiscal management.

(4) Violated a provision of law from which the charter school was not exempted.

b. A decision to revoke or to not renew a charter school contract may only be by resolution of the state board and is to clearly state the reasons for the revocation or nonrenewal.

19.12(4) *Contract revocation and nonrenewal standards and procedures.* The state board will develop charter school contract revocation and nonrenewal standards and procedures that do all of the following:

a. Provide the charter school with a timely notice of the possibility of revocation or nonrenewal and of the reasons therefor.

b. Allow the charter school a reasonable period of time in which to prepare a response to any notice received.

c. Provide the charter school an opportunity to submit documents and give testimony challenging the decision to revoke the charter school contract or the decision to not renew the contract.

d. Allow the charter school the opportunity to hire legal representation and to call witnesses.

e. Permit the audio or video recording of such proceedings described in paragraphs 19.12(4)*"c"* and *"d."*

f. Require a final decision to be conveyed in writing to the charter school.

[**ARC 8241C**, IAB 10/2/24, effective 11/6/24]

281—19.13(256E) Procedures for charter school closure—student enrollment. Charter school closures are governed by Iowa Code section 256E.11. Prior to any charter school closure decision, the state board will develop a charter school closure protocol to ensure timely notice to parents and guardians, provide for the orderly transition of students and student records to new schools, and provide proper disposition of school funds, property, and assets in accordance with this division. The protocol specifies necessary actions and timelines and identifies responsible parties for each such action.

[**ARC 8241C**, IAB 10/2/24, effective 11/6/24]

281—19.14(256E) Reports.

19.14(1) *Annual report.* Each charter school prepares and files an annual report with the department, on or before October 1 and including data from the prior school year, pursuant to Iowa Code section 256E.12(1) that includes:

a. The charter school's mission statement, including a vision statement and goals, as well as data measuring goal attainment.

b. Student demographics, disaggregated by grade level and protected characteristics.

c. Attendance statistics and dropout rate (average daily attendance, dropout rate, student mobility).

d. Graduation data, including four-year and five-year graduation rates, credit accrual, and number of students on track for graduation.

e. Student achievement, including annual academic growth and proficiency, including Iowa statewide assessment of student progress (ISASP) data, other assessment data, and aggregate assessment test scores.

f. Financial performance, including projections of financial stability.

g. The number and qualifications of teachers and administrators.

h. Sustainability data, including enrollment trends, staff satisfaction, and parent and student satisfaction.

19.14(2) *Annual financial report.* Each charter school submits a Certified Annual Report consistent with 281—Chapter 99. The annual financial report is due to the department by September 15.

19.14(3) *Report to general assembly.* The state board will prepare and file a report with the general assembly annually by December 1 as required by Iowa Code section 256E.12(2).

[**ARC 8241C**, IAB 10/2/24, effective 11/6/24]

281—19.15(256E) Operation of existing charter schools. Charter schools established pursuant to Iowa Code chapter 256F continue to operate pursuant to that Iowa Code chapter and are not subject to the requirements of this division or Iowa Code chapter 256E.

[**ARC 8241C**, IAB 10/2/24, effective 11/6/24]

These rules are intended to implement Iowa Code chapter 256E.

DIVISION II

CHARTER SCHOOLS ESTABLISHED BEFORE JULY 1, 2021

281—19.16(256F) Definitions. The definitions in Iowa Code section 256F.2 apply to this division. In addition, "advisory council" means a council appointed by the school board of a charter school. With respect to a charter school, no more than one member of the council may be a member of the school board; a district's school improvement advisory committee may also serve as its advisory council. All advisory councils are subject to the provisions of Iowa Code chapters 21 and 22.

"Family unit" means a household in which resides one or more students enrolled at the existing public school that is the subject of a charter school application.
[**ARC 8241C**, IAB 10/2/24, effective 11/6/24]

281—19.17(256F) Operating requirements. Charter schools are governed by Iowa Code sections 256F.4(2) through (8), 256F.6, and 256F.7.
[**ARC 8241C**, IAB 10/2/24, effective 11/6/24]

281—19.18(256F) Ongoing review by the department. The department periodically reviews each charter school to ensure continuing compliance with the charter school's contract. The department may schedule mandatory meetings with the administrators of all charter schools at the department's sole discretion. Iowa Code section 256F.10 governs necessary reports under this division.
[**ARC 8241C**, IAB 10/2/24, effective 11/6/24]

281—19.19(256F) Renewal of charter. The school board that established the charter school, in the absence of revoking the charter pursuant to rule 281—19.20(256F), takes affirmative action to renew a charter school contract after the initial four-year contract for a charter school and at the end of each renewal period. The school board shall hold a public hearing on the issue of renewal and submit to the department a copy of the minutes of the public hearing showing that a majority of the school board members voted in favor of renewal of the charter. Any action to renew a charter specifies the number of years, which may only be four years or less, for which the charter was renewed by the school board.

A school board will submit a new application to the department if the board modifies any of the terms of the original charter.
[**ARC 8241C**, IAB 10/2/24, effective 11/6/24]

281—19.20(256F) Revocation or nonrenewal of charter. Iowa Code sections 256F.8 and 256F.9 govern revocation or nonrenewal of a charter under this division.
[**ARC 8241C**, IAB 10/2/24, effective 11/6/24]

281—19.21(256F) Transition—operation of existing charter schools. Charter schools established pursuant to this division and Iowa Code chapter 256F prior to July 1, 2021, may continue to operate pursuant to those terms and are not subject to Iowa Code chapter 256E or Division I of this chapter. No new charter or innovation zone school may be created under this division.
[**ARC 8241C**, IAB 10/2/24, effective 11/6/24]

These rules are intended to implement Iowa Code chapter 256F.

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CHAPTER 20
STUDENTS FIRST ACT—EDUCATION SAVINGS ACCOUNTS

Chapter rescission date pursuant to Iowa Code section 17A.7: 9/27/28

281—20.1(257) Definitions.

20.1(1) "Annual income" means the same as line 4 of Form 2023 IA 1040 (Iowa taxable income). In calculating annual income, the department shall use information from the last year's state tax form and need not include income of individuals who have no legal obligation to provide support to the student unless said individual is married to the parent or guardian who is responsible for financially supporting the student. If "annual income" cannot be clearly determined through review of the submitted tax return, the department director has authority to request additional information and determine eligibility. The department director may consider income reductions after the filing of the preceding year's tax return. This subrule applies only for school years beginning July 1, 2023, and July 1, 2024; it will cease to be applicable by operation of law on July 1, 2025.

20.1(2) "Department" means the department of education.

20.1(3) "Full-time" means enrollment at a nonpublic school with a minimum school calendar that meets the requirement of Iowa Code section 279.10 for at least 75 percent of the school's definition of "full-time."

20.1(4) "Household" means the number of people who reside together and who are related by birth, marriage, adoption, legal guardianship, or placement in the home through a state agency. "Household" includes parents, student applicants, and other children who share at least one parent by birth, by adoption, by a parent's current marriage, or by placement in the home through a state agency. A parent on military duty is considered to be residing in the household. If "household" cannot be clearly determined through review of the submitted tax return, the department director has authority to request additional information and determine eligibility. This subrule applies only for school years beginning July 1, 2023, and July 1, 2024; it will cease to be applicable by operation of law on July 1, 2025.

20.1(5) "Nonpublic school" means the same as defined in Iowa Code section 285.16.

20.1(6) "Qualified educational expenses" means the same as defined in Iowa Code section 257.11B(1)*"b"* as enacted by 2023 Iowa Acts, House File 68, section 7.

a. For purposes of this subrule, an approvable provider of "educational therapies" is qualified by recognized training and education to provide those educational therapies. To prevent waste, fraud, and abuse, "educational therapies" does not include therapies provided by the student's family. For purposes of this subrule, "family" includes parents, step-parents, guardians, siblings, half siblings, step-siblings, grandparents, step-grandparents, aunts, uncles, or first cousins.

b. For purposes of this subrule, approvable "online education programs" means online education programs provided by online education providers approved by the department under 281—Chapter 15.

c. For purposes of this subrule, an approvable provider of "vocational and life skills education" is any entity approved by the department or any other unit of state government to provide the vocational and life skills education sought.

d. For purposes of this subrule, an approvable "accredited provider" is any individual or organization holding a credential issued by the Iowa board of educational examiners or any other credential issued by the state of Iowa to provide the service at issue. For purposes of this paragraph, paraprofessionals or assistants are sufficiently trained if they hold a credential issued under Iowa Code section 272.12 or if they have received training and education deemed sufficient by their supervising professional.

e. For purposes of this subrule, expenses listed in Iowa Code section 257.11B(1)*"b"* as enacted by 2023 Iowa Acts, House File 68, section 7, as "not included" in the definition of "qualified educational expenses," are not eligible for payment.

20.1(7) "Resident" means the same as defined in Iowa Code section 282.1(2).

20.1(8) "Student" is synonymous with the term "pupil" as that term is used in Iowa Code section 257.11B as enacted by 2023 Iowa Acts, House File 68, section 7.

[**ARC 7061C**, IAB 8/23/23, effective 9/27/23; **ARC 7652C**, IAB 3/6/24, effective 4/10/24]

281—20.2(257) Eligible students.

20.2(1) Resident students are eligible as described in Iowa Code section 257.11B(2) as enacted by 2023 Iowa Acts, House File 68, section 7, with annual income determined pursuant to subrule 20.1(1).

20.2(2) Resident students are deemed to attend a nonpublic school for that school budget year under Iowa Code section 257.11B(2) as enacted by 2023 Iowa Acts, House File 68, section 7, if the student attends a nonpublic school on a full-time basis.

20.2(3) Resident students are deemed enrolled in a nonpublic school for the school year immediately preceding the school year for which the education savings account (ESA) payment is requested under Iowa Code section 257.11B(2) as enacted by 2023 Iowa Acts, House File 68, section 7, if they enrolled in and attended a nonpublic school at any point in the immediately preceding school year.

[**ARC 7061C**, IAB 8/23/23, effective 9/27/23]

281—20.3(257) Application process. The parent or guardian of an eligible student may request an ESA payment during the time period specified by Iowa Code section 257.11B(3) as enacted by 2023 Iowa Acts, House File 68, section 7, by applying to the department, in a manner prescribed by the department. Within the time frame provided by Iowa Code section 257.11B(5) as enacted by 2023 Iowa Acts, House File 68, section 7, the department will provide a response to the application.

[**ARC 7061C**, IAB 8/23/23, effective 9/27/23]

281—20.4(257) Administration, accountability, monitoring, and enforcement.

20.4(1) The department will take reasonable efforts to verify eligibility of parents, students, nonpublic schools, and providers to participate in this chapter, including verifying information with other state agencies.

20.4(2) The department will make an equal distribution of funds under this chapter to a third-party entity, for distribution to eligible students' accounts, after confirming enrollment at the start of the academic year and enrollment and attendance at the midpoint of the academic year.

20.4(3) The department's actions under Iowa Code section 257.11B(5)*"e"* and *"f"* as enacted by 2023 Iowa Acts, House File 68, section 7, may be any action consistent with the department's authority under Iowa Code section 256.1.

20.4(4) The department must recover all improperly paid ESA funds. The department and its director have flexibility to engage in voluntary collection activities if overpayments were based on a good faith error. For purposes of this chapter, a "false claim" is a statement made in conjunction with this program that is knowingly false or in reckless disregard of the truth.

20.4(5) A parent or guardian may appeal to the state board of education any administrative decision the department or third-party entity makes pursuant to this chapter, including determinations of eligibility, allowable expenses, and removal from the program. An appeal under this subrule must be signed and in writing. Electronic submissions and signatures are allowed. Any appeals under this subrule are timely if filed within 30 days of the date of the administrative decision and are governed by 281—Chapter 6.

[**ARC 7061C**, IAB 8/23/23, effective 9/27/23]

These rules are intended to implement Iowa Code section 257.11B as enacted by 2023 Iowa Acts, House File 68.

[Filed ARC 7061C (Notice ARC 7023C, IAB 5/31/23), IAB 8/23/23, effective 9/27/23]

[Filed ARC 7652C (Notice ARC 7315C, IAB 12/27/23), IAB 3/6/24, effective 4/10/24]

TITLE III
COMMUNITY COLLEGES

CHAPTER 21
COMMUNITY COLLEGES

[Prior to 9/7/88, see Public Instruction Department[670] Ch 5]
[Former Ch 21 Rescinded, IAB 9/7/88]

Chapter rescission date pursuant to Iowa Code section 17A.7: 5/22/29

DIVISION I
APPROVAL STANDARDS

281—21.1(260C) Definitions. For purposes of this chapter, the indicated terms are defined as follows:

"Applied liberal arts and sciences course" means a course that is classified as arts and sciences in Iowa's common course numbering system and that primarily consists of hands-on or occupational skill development, including but not limited to accounting, ceramics, criminal investigation, dance, drama, music, photography, and physical education.

"Department" means the Iowa department of education.

"Director" means the director of the department.

"Field of instruction" means the discipline or occupational area within which an instructor teaches, which aligns with the content of the course being taught as indicated by the course prefix, title, or description.

"Full-time equivalent enrollment" or *"FTEE"* equals 24 credit hours for credit courses or 600 contact hours for noncredit courses generated by all eligible students enrolled in eligible courses.

"Full-time instructor" means an instructor who is considered to be full-time if the community college board of directors designates the instructor as full-time. Determination of full-time status is based on local board-approved contracts.

"Higher Learning Commission" means the regional accrediting authority recognized by the United States Department of Education. Iowa Code sections 260C.47 and 260C.48 require that the state accreditation process be integrated with that of the Higher Learning Commission.

"Joint enrollment" means any community college credit course offered to students enrolled in a secondary school. Courses offered for joint enrollment include courses delivered through contractual agreements between school districts and community colleges, courses delivered through the postsecondary enrollment options program, and college credit courses taken independently by tuition-paying secondary school students.

"Qualifying graduate field or major" means a qualifying graduate field or major that represents an academic discipline in which an instructor must have earned credit in order to teach courses in specified fields of instruction.

"Relevant tested experience" means the breadth, depth, and currency of work experience outside of the classroom in real-world situations relevant to the field of instruction.

[**ARC 7790C**, IAB 4/17/24, effective 5/22/24; **ARC 9102C**, IAB 4/16/25, effective 5/21/25]

281—21.2(260C) Administration.

21.2(1) *Policy manual.* A community college board of directors will develop and maintain a policy manual that adequately describes the official policies of the institution.

21.2(2) *Administrative staff.* A community college will develop an administrative staff appropriate to the size and the purpose of the institution and one that permits the institution to function effectively and efficiently. This administrative staff will provide effective leadership for the major divisions of the institution including administrative services, adult and continuing education, career and technical education, college parallel education, and student services.

21.2(3) *Chief executive officer.* A community college will have a chief executive officer who is also the executive officer of the board of directors. The executive officer is responsible for the operation of the

community college with respect to its educational program, its faculty and student services programs, and the use of its facilities. The executive officer may delegate to the staff all necessary administrative and supervisory responsibilities to ensure an efficient operation of the institution.

21.2(4) *Financial records and reports.* The community college will maintain accurate financial records and make reports in the form and pursuant to the timeline prescribed by the department and other state agencies.

21.2(5) *Enrollment.* A community college will meet minimum enrollment requirements if it offers instruction as authorized in Iowa Code chapter 260C and if, to the satisfaction of the state board of education, it is able to provide classes of reasonable economic size as needed by students, meets the needs of the students, and shows by its past and present enrollment and placement record that it meets individual and employment needs.

21.2(6) *Catalog.* The catalog is the official publication of the community college. It will include accurate information on institutional policies, admissions requirements, procedures and fees, refund policies, residency requirements, program enrollment and degree requirements, due process procedures, affirmative action, and other information as recommended by the department. Students' rights and responsibilities may be included in the catalog or in a separate document.

21.2(7) *Admissions and program/course enrollment requirements.* The community college will maintain an open-door admission policy for students of postsecondary age. This admission policy will recognize that students should demonstrate a reasonable prospect for success in the program in which they are admitted. Applicants who cannot demonstrate a reasonable prospect for success in the program for which they apply should be assisted to enroll in courses where deficiencies may be remediated or into programs appropriate to the individual's preparation and objectives. The community college may set reasonable requirements for student enrollment in specified programs and courses. Admissions and program enrollment requirements established by each community college will be published in the community college catalog.

21.2(8) *Academic year.* The academic year of the community college will consist of semester, trimester, or quarter terms, and will be a period of time beginning with the first day of the fall term and continuing through the day preceding the start of the next fall term as indicated in the official college calendar. A community college may offer instruction in units of length (i.e., days and weeks) consistent with the identified scope and depth of the instructional content.

21.2(9) *Award requirements.* The director will approve all new credit certificate, diploma, and degree award programs in accordance with Iowa Code section 260C.14. Awards from a community college will be certified by the issuance of appropriate recognition, pursuant to award approval requirement guidelines issued by the department, indicating the type of program the student has completed. The minimum number and maximum number of credit hours required for each award type contained within this subrule may be waived pursuant to paragraph 21.2(13)*"i."* Each award will meet the expectations of statewide articulation agreements between Iowa community colleges and public universities.

a. Associate of arts (AA). The degree is awarded upon completion of a college parallel (transfer) course of study that provides a strong general education component to satisfy the lower division general education liberal arts and sciences requirements for a baccalaureate degree. An associate of arts degree consists of a minimum of 60 semester (90 quarter) credit hours and a maximum of 64 semester (96 quarter) credit hours.

b. Associate of science (AS). The degree is awarded upon completion of a course of study that requires a strong background in mathematics or science. The degree is intended to prepare students to transfer and initiate upper division work in baccalaureate programs. An associate of science degree awarded upon completion of an arts and sciences course of study consists of a minimum of 60 semester (90 quarter) credit hours and a maximum of 64 semester (96 quarter) credit hours.

c. Associate of general studies (AGS). The degree is awarded upon completion of an individualized course of study that is primarily designed for the acquisition of a broad educational background rather than the pursuit of a specific college major or professional/technical program. The AGS is intended as a flexible course of study and may include specific curriculum in lower division transfer, occupational education, or professional-technical education. It will not include a marketed course of study. An associate of general

studies degree consists of a minimum of 60 semester (90 quarter) credit hours and a maximum of 64 semester (96 quarter) credit hours.

d. Associate of applied science (AAS). The degree is awarded upon completion of a state-approved program of study that is intended to prepare students for entry-level career and technical occupations. An associate of applied science degree consists of a minimum of 60 semester (90 quarter) credit hours and a maximum of 86 semester (129 quarter) credit hours. The general education component of the associate of applied science degree program consists of a minimum of 15 semester (22.5 quarter) credit hours of general education and include at least one course from each of the following areas: communications, social science or humanities, and mathematics or science. A maximum of 3 semester (4.5 quarter) credit hours of the required 15 general education credits may be embedded within an existing course in the technical core. The technical core of the associate of applied science degree will constitute a minimum of 50 percent of the course credits.

e. Associate of applied arts (AAA). The degree is awarded upon completion of a state-approved program of study that is primarily intended for career training in providing students with professional skills for employment in a specific field of work, such as arts, humanities, or graphic design. An associate of applied arts degree consists of a minimum of 60 semester (90 quarter) credit hours and a maximum of 86 semester (129 quarter) credit hours. The general education component of the associate of applied arts degree program will consist of a minimum of 15 semester (22.5 quarter) credit hours of general education and include at least one course from each of the following: communications, social science or humanities, and mathematics or science. A maximum of 3 semester (4.5 quarter) credit hours of the required 15 general education credits may be embedded within an existing course in the technical core. The technical core of the associate of applied arts degree will constitute a minimum of 50 percent of the course credits.

f. Associate of professional studies (APS). The degree is awarded upon completion of a state-approved program of study that is intended to prepare students for transfer and upper division coursework in aligned baccalaureate programs or immediate entry into the workforce.

(1) To be eligible to offer this award type, a college shall demonstrate that other award types cannot meet needs and the associate of professional studies award is appropriate.

(2) An associate of professional studies degree will consist of a minimum of 62 semester (93 quarter) credit hours and a maximum of 68 semester (102 quarter) credit hours. The general education component of the associate of professional studies degree will consist of a minimum of 30 semester (45 quarter) credit hours of general education including 3 semester (4.5 quarter) credit hours of each of the following: speech, mathematics, humanities, social and behavioral sciences, science; 6 semester (9 quarter) credit hours of writing; and 9 semester (13.5 quarter) credit hours distributed among mathematics, social and behavioral sciences, humanities, and science. The technical core of the associate of professional studies degree will consist of a minimum of 16 semester (24 quarter) credit hours of career and technical coursework accepted by a receiving baccalaureate degree-granting institution with an aligned program as applying toward a specific major or program of study. The technical core of the degree will also consist of a minimum of 16 additional semester (24 quarter) credit hours of career and technical coursework accepted by the receiving institution as electives.

(3) An associate of professional studies degree program of study will have a minimum of three program-to-program articulation agreements with baccalaureate degree-granting institutions, at least one of which must be a public institution. A program will have a minimum of one articulation agreement effective prior to program implementation, provided all three agreements are effective within the program's first year of student enrollment. The agreements will provide for the application of no fewer than 60 semester (90 quarter) credit hours toward the graduation requirements of each articulated baccalaureate degree program.

g. Diploma. The diploma is awarded upon completion of a state-approved program of study that is a coherent sequence of courses consisting of a minimum of 15 semester (22.5 quarter) credit hours and a maximum of 48 semester (72 quarter) credit hours including at least 3 semester (4.5 quarter) credit hours of general education. The general education component may be embedded within an existing course in the technical core and will be from any of the following areas: communications, social science or humanities, and mathematics or science. The technical core of the diploma will constitute a minimum of 70 percent of

the course credits. A diploma may be a component of and apply toward subsequent completion of an associate of applied science or associate of applied arts degree.

h. Certificate. The certificate is awarded upon completion of a state-approved program of study that is designed for entry-level employment and consists of a maximum of 48 semester (72 quarter) credit hours. A certificate may be a component of and apply toward subsequent completion of a diploma or associate of applied science or associate of applied arts degree and may be developed in rapid response to the needs of business and industry. A certificate may consist of only career and technical courses and no general education course requirements.

21.2(10) *Academic records.* The community college shall maintain in perpetuity for each student the complete academic record including every course attempted and grade received. An official transcript must be created at the time of course enrollment. The credit hour(s) and grade will be recorded on the student's official transcripts upon completion of a community college course. These records shall be kept in disaster-resistant storage, unless other equivalent safeguards are used, such as maintaining duplicate files (electronic or otherwise) in separate facilities. The method of storage will be consistent with current technology to ensure the ability to retrieve records. The community college will implement a security plan that ensures the confidentiality of student records.

21.2(11) *Residency status and tuition.* A student who has been admitted to an Iowa community college will be classified as a resident or as a nonresident for admission, tuition, and fee purposes. A student classified as a resident will pay resident tuition costs. A student classified as a nonresident will pay nonresident tuition costs. Tuition rates are established by a community college's board of trustees pursuant to Iowa Code section 260C.14(2).

a. Tuition rates. Tuition rates adopted by a community college's board of trustees will be consistent with the following requirements:

(1) Resident tuition.

1. Tuition for residents will not exceed the lowest tuition rate per semester, or the equivalent, for a full-time student charged by an institution of higher education under the state board of regents.

2. For students of high school age enrolled in a course through a contractual agreement with a school district, the limit on resident tuition does not apply, and the amount of tuition will be determined by the community college's board of trustees with the consent of the school board.

3. Resident tuition rates do not require department approval.

(2) Nonresident tuition. Tuition for nonresidents will be not less than the marginal cost of instruction of a student attending the college. The establishment of nonresident tuition rates does not require department approval, with the exception of rates established pursuant to numbered paragraph 21.2(11)*"a"*(2)"2" and "3" and subparagraph 21.2(11)*"a"*(3).

1. International student tuition rates. A separate nonresident rate for international students is permissible, provided the rate is reasonable and reflects the cost of appropriate services.

2. Reciprocal agreements. A lower tuition rate for nonresidents is permitted under a reciprocal tuition agreement between a community college and an educational institution in another state, if the rate established in the agreement is approved by the department.

3. Other nonresident rates. Other nonresident tuition rates may be established for specific purposes provided the tuition rate is greater than the resident tuition rate, the tuition rate is not less than the marginal cost of instruction, and the arrangement is approved by the department.

(3) Consortia. A separate tuition rate for residents and nonresidents is permitted for courses delivered through a consortia agreement for online, distance education, or other coursework between Iowa community colleges, if the rate established in the agreement is approved by the department. Tuition will not be less than the lowest resident rate or higher than the highest nonresident rate of institutions within the consortium.

(4) Noncredit course tuition. Tuition for noncredit continuing education courses will be determined based on course costs and market demand. Tuition rates for courses that are not credit-bearing do not require department approval.

(5) Department approval. For tuition rates requiring department approval, the department will approve rates that comply with the requirements set forth in this chapter. Before a rate is adopted by a community

college's board of trustees and charged to students, the community college will request and receive approval for a tuition rate.

(6) Reporting. A community college will annually report all tuition rates and mandatory fees in a manner prescribed by the department.

(7) Notification. A community college will inform all students about residency status determinations, the appeal process, and tuition policies. Information will be included in appropriate publications, such as the college's catalog, registration materials, website, and student handbook.

b. Determination of residency status. In determining a community college resident or nonresident classification, the primary determinant is the reason the student is in the state of Iowa. The second determinant is the length of time a student has resided in Iowa. If a student is in the state primarily for educational purposes, that student is considered a nonresident. The burden of establishing the reason a student is in Iowa for other than educational purposes rests with the student.

(1) Procedure. The registrar or officially designated community college office will require written documents, affidavits, or other related evidence deemed necessary to determine why a student is in Iowa. A student will be required to file at least two documents from different sources to determine residency status. Examples of acceptable documentation include: written and notarized documentation from an employer that the student is employed in Iowa or a signed and notarized statement from the student describing employment and sources of support; an Iowa state income tax return; an Iowa driver's license; an Iowa vehicle registration card; an Iowa voter registration card; or proof of Iowa Homestead credit on property taxes. In all events, to be determined a resident of Iowa, the student must document residing in the state of Iowa for at least 90 days prior to the beginning of the term for which the student is enrolling.

1. If a student gives misleading or incorrect information for the purpose of evading payment of nonresident tuition, the student must pay the nonresident tuition for each term the student was not officially classified as a nonresident.

2. The procedures described in paragraph 21.2(11)*"b"* will be administered by the registrar or staff designated by the community college.

(2) Residency of minor students. The domicile of a minor follows that of the parent with whom the minor resides, except where emancipation of said minor can be proven. The word "parent" includes legal guardian or others in cases where the lawful custody of a minor has been awarded to persons other than the minor's actual parents. A minor living with a resident of Iowa who is legally responsible for the minor shall be granted resident status if the minor has lived with the Iowa resident for at least 90 days immediately prior to enrollment. The residency status of an emancipated minor is based upon the same qualifications established for a student having attained majority.

(3) Residency of students who are not citizens of the United States. The residency status of students who are not citizens of the United States will be determined consistent with the following procedures:

1. A student who is a refugee or who is granted asylum by an appropriate agency of the United States must provide proof of certification of refugee or asylum grantee status. A student may be accorded resident status for admission and tuition purposes when the student comes directly, or within a reasonable time, to the state of Iowa from a refugee facility or port of debarkation and has not established domicile in another state.

2. A student who has immigrant status, and the student's spouse or dependents, may establish Iowa residency in the same manner as a United States citizen.

3. A student who has nonimmigrant status and who holds a nonstudent visa, and the student's spouse or dependents, may establish residency in the same manner as a United States citizen. An alien who has nonimmigrant status and whose primary purpose for being in Iowa is educational is classified as nonresident.

4. A student who is a resident of an Iowa sister state may be classified as a resident or nonresident, in accordance with rules adopted by the college's board of directors.

(4) Residency of federal personnel and dependents. A student, or the student's spouse or dependent child, who has moved into the state of Iowa as the result of military or civil orders from the federal government, and the minor children of such student, is immediately an Iowa resident.

(5) Residency of veterans and family members and individuals covered under Section 702 of the Veterans Access, Choice and Accountability Act of 2014. A veteran of a uniformed service, a member of the National Guard, or the veteran's or member's spouse or dependent child will be classified as an Iowa resident student and be eligible for resident tuition and fee amounts, if the veteran or national guard member meets the requirements of numbered paragraph 21.2(11)*"b"*(5)"1," "2," or "3."

1. The veteran has separated from a uniformed service with an honorable or general discharge, is eligible for benefits, or has exhausted benefits under the federal Post-9/11 Veterans Educational Assistance Act of 2008 or any other federal authorizing veteran educational benefits program.

2. The individual is an active duty military person or activated or temporarily mobilized National Guard member.

3. The individual is a covered person under Section 702 of the Veterans Access, Choice and Accountability Act of 2014 or subsequent legislation, as effective on February 7, 2024.

(6) Reclassification of residency status. It is the responsibility of a student to request a reclassification of residency status. If a student is reclassified as a resident for tuition purposes, such classification is effective beginning with the next term for which the student enrolls. In no case will reclassification to residency status be made retroactive for tuition and fee purposes, even though the student could have previously qualified for residency status had the student applied.

(7) Appeal. The decision on the residency status of a student for admission, tuition, and fee purposes may be appealed to a review committee established by the community college. The findings of the review committee may be appealed to the community college's board of trustees, whose decision is a final administrative decision.

21.2(12) *Credit hours.* Credit hours will be determined consistent with the following procedures.

a. Specifically stated criteria are minimal requirements only, which institutions may exceed at their discretion.

b. Conventional instruction is subdivided into four instructional methods as herein defined.

(1) Classroom work — lecture and formalized classroom instruction under the supervision of an instructor.

(2) Laboratory work — experimentation and practice by students under the supervision of an instructor.

(3) Clinical practice — applied learning experience in a health agency or office under the supervision of an instructor.

(4) Work-based learning — employment-related experience planned and coordinated by an institutional representative and the employer, with control and supervision of the student on the job being the responsibility of the employer. Planned and supervised connections of classroom, laboratory and industry that prepare students for current and future careers.

c. No registration or orientation hours may be included when determining credit hours.

d. Institutions will take into account the soundness of the learning environment being created by the scheduling sequence and length of classroom, laboratory, clinical, and work-based learning sessions. However, the final decision on these matters is left to the institutional administration so long as minimal standards are met.

e. Only minutes for students officially registered for courses or programs, including audit registration, may be included when determining credit hours.

f. Each community college must establish a policy that defines its methods of equating alternative instruction to credit hours and the process for evaluating the effectiveness of the alternative instruction to meet or exceed the expected student outcomes as if the course were taught utilizing conventional methods in paragraph 21.2(12)*"b."* Colleges will be held accountable for evaluating and maintaining high-quality programs, and their evaluations may be subject to department review. Students will be expected to meet all approved course requirements and will be expected to demonstrate the acquisition of knowledge and competencies/outcomes at the same level as those obtained in traditional classroom settings, in the time frames set by the institution. Alternative courses or programs of study must be approved by the college's review processes including faculty review and input. Courses will be listed in the college catalog.

Instructional formats for which alternative methods of determining credit hours are applicable include the following:

(1) Accelerated courses (study, programs). Courses or programs of study that allow students to complete courses or programs at a faster pace than if offered by conventional methods. Courses and programs will be tailored to involve more student participation and self-directed study. Instructors may teach in traditional classroom settings or by alternative methods specified in this subrule.

(2) Distance education. Courses or programs of study taught over the Internet, Iowa Communications Network (ICN), or other electronic means that allow students to receive instruction in the classroom or other sites, over personal computers, television, or other electronic means. Courses may or may not be interactive with direct communication between the teacher and students. Credit hours will be awarded in accordance with the credit hours that would have been assigned if the course or program were taught by conventional methods.

1. Correspondence courses. Courses offered outside the classroom setting in which the instruction is delivered indirectly to the student. Instruction is provided through another medium, such as written material, computer, television, or electronic means. Course materials are sent to a student who follows a detailed syllabus to complete assignments. Students correspond with and transmit assignments to the instructor by telephone, computer, mail, or electronic means. A third party may administer tests.

2. Television courses. Courses or programs delivered primarily via broadcast television, such as Iowa Public Television, digital video disc, or other media allowing students to receive instruction in a classroom or equipped remote location.

3. Video conference courses. Courses or programs delivered via a closed synchronous audio-video conferencing system, such as the Iowa Communications Network or similar system that allows students to receive instruction in a classroom or any equipped remote location via an audio-video feed to a television, computer, or other electronic device.

4. Online courses. Courses or programs delivered via the Internet. Courses may be taken using computers in a classroom setting or using personal computers or other electronic devices from the student's home or other location using an online learning management system or mixed-media methods. Students may be linked at times directly with the instructor or with other students electronically. Interaction may be direct (synchronous) or indirect (asynchronous) allowing students to participate during their own time frames.

5. In-class hybrid courses. Courses or programs that combine traditional classroom and computer-based instruction. In-class sessions are offered with online instructional activities to promote independent learning and reduce seat time.

(3) Self-paced instruction. Courses or programs that permit a student to enter at variable times or progress at the student's own rate of speed. Start and end dates may or may not correspond to the official college calendar. Contact or credit hours for self-paced programs or courses will be computed by assigning to each registration the total number of credit or contact hours the student would have received if the student enrolled in a conventional program or course with stipulated beginning and ending dates.

(4) Arranged study. Instruction offered to students at times other than stated or scheduled class times to accommodate specific scheduling or program needs of students. Credit hours will be awarded in accordance with the credit hours that would have been assigned if the course or program were taught by conventional methods.

(5) Multiformat nontraditional instruction. Instruction utilizing a variety of nontraditional methods that may incorporate self-paced learning, text, video, computer instructional delivery, accelerated training, independent study, Internet delivery, or other methods that do not follow standard classroom work guidelines. Credit hours will be awarded in accordance with the credit hours that would have been assigned if the course or program were taught by conventional methods.

(6) Competency-based instruction. Programs delivered using an outcomes-based approach, where the curriculum is structured around specified competencies and satisfactory academic progress is expressed as the attainment or mastery of the identified competencies.

g. Individualized learning experiences for which an equivalent course is not offered will have the program length computed from records of attendance using such procedures as a time clock or sign-in

records. Individualized learning experiences means independent study courses in which an equivalent course is not offered by the college or listed in the college catalog. Independent study permits in-depth or focused learning on special topics of particular interest to the student.

h. Each course must have a minimum length of one credit hour. A fractional unit of credit may be awarded, provided the course exceeds the minimum length of one credit hour.

i. Each credit hour shall consist of a minimum number of contact hours as defined in paragraphs 21.2(12)*"h"* to *"m."* One contact hour equals 50 minutes.

j. Classroom work.

(1) The minimum requirement for one semester hour of credit is 800 minutes (16 contact hours) of scheduled instruction.

(2) The minimum requirement for one quarter hour of credit is 533 minutes (10.7 contact hours) of scheduled instruction.

k. Laboratory work.

(1) The minimum requirement for one semester hour of credit is 1,600 minutes (32 contact hours) of scheduled laboratory work.

(2) The minimum requirement for one quarter hour of credit is 1,066 minutes (21.3 contact hours) of scheduled laboratory work.

l. Clinical practice.

(1) The minimum requirement for one semester hour of credit is 2,400 minutes (48 contact hours) of scheduled clinical practice.

(2) The minimum requirement for one quarter hour of credit is 1,599 minutes (32 contact hours) of scheduled clinical practice.

m. Work-based learning.

(1) The minimum requirement for one semester hour of credit is 3,200 minutes (64 contact hours) of scheduled work-based learning.

(2) The minimum requirement for one quarter hour of credit is 2,132 minutes (42.6 contact hours) of scheduled work-based learning.

21.2(13) *Career and technical program length.*

a. Program length for the associate of applied science (AAS) degree in career and technical education, for the associate of applied arts (AAA) degree, and for the associate of professional studies (APS) degree will consist of an academic program not to exceed two academic years. All required course offerings are to be available within two academic years. All required offerings in AAS and AAA degree programs will not exceed a maximum of 86 semester (129 quarter) credit hours unless the department has granted a waiver pursuant to paragraph 21.2(13)*"i."* All required offerings in APS degree programs will not exceed a maximum of 68 credit hours. Programs will not exceed an average of 19 credit hours per regular term.

b. All credit-bearing courses required for program admittance or graduation, or both, will be included in the program length credit hour maximum, with the exception of developmental course credit hours. Prerequisites that provide an option to students for either credit or noncredit shall be counted toward the program parameters. Prerequisite options that are only offered for noncredit will not be counted toward program length parameters. A high school course prerequisite is permissible and will not count toward program length parameters, provided the prerequisite is reasonable. A high school course prerequisite is reasonable if a community college demonstrates that students entering the program predominantly meet the requirement without prior college coursework.

c. Associate of applied science (AAS) and associate of applied arts (AAA) programs that receive accreditation from nationally recognized accrediting bodies may appeal maximum credit hour length requirements to the department for consideration of a waiver. All AAS and AAA degree programs over the 86 semester (129 quarter) credit hour maximum must have approved program-length waivers pursuant to paragraph 21.2(13)*"i."*

d. Associate of professional studies programs are not eligible for a program-length waiver pursuant to paragraph 21.2(13)*"i."*

e. All credit certificate and diploma programs as defined in subrule 21.2(9) will not exceed 48 semester (72 quarter) credit hours.

f. Each course offered in the area of career and technical education will be taught in the shortest practical period of time at a standard consistent with the quality and quantity of work needed to prepare the student for successful employment in the occupation for which instruction is being offered.

g. A full-time student in career and technical education is defined as a student enrolling in 12 or more semester credit hours or the equivalent in career and technical education.

h. Curricula in full-time career and technical education programs will ordinarily be offered on the basis of student workload of 20 to 30 contact hours per week.

i. Waiver process. A college may petition the department to suspend in whole or in part a program-length requirement contained in paragraphs 21.2(13)*"a"* to *"e"* as applied to a specific program on the basis of the particular circumstances of that program.

(1) Waivers are issued at the director's sole discretion. Waivers will be narrowly tailored and granted for a period no longer than two academic years, after which reapplication is necessary. A waiver may be granted on a long-term basis, not to exceed ten years, if issuing the waiver for a shorter period is not practical.

(2) All petitions for waiver must be submitted in writing to the department and include the following information: specific waiver request including scope and duration, the relevant facts that the petitioner believes would justify a waiver, a detailed statement of the impact on student achievement, any information known regarding the department's treatment of similar cases, and any additional information deemed relevant by the petitioner. The department will acknowledge a petition upon receipt.

(3) The department will ensure that, within 30 calendar days, notice of pendency of the petition and a concise summary of its contents have been provided to a committee consisting of the chief academic officers of each community college. In addition, the department may give notice to other persons.

(4) A committee consisting of the chief academic officers of a majority of community colleges will review the waiver request and provide a recommendation to the department regarding whether approval should be granted. Within 90 calendar days of receiving the recommendation, the department will review the petition and issue a ruling. Failure of the department to grant or deny a petition within the required time period is deemed a denial of that petition. If a waiver is issued, the department will provide a description of the precise scope and operative period to all interested parties.

21.2(14) *Faculty organization.* The faculty shall be organized in such a way as to promote communication among administration, faculty and students and to encourage faculty participation in the development of the curriculum, instructional procedures, general policies, and such other matters as are appropriate.

[**ARC 7790C**, IAB 4/17/24, effective 5/22/24; **ARC 8240C**, IAB 10/2/24, effective 11/6/24; **ARC 9102C**, IAB 4/16/25, effective 5/21/25]

281—21.3(260C) Associate of arts and associate of science transfer major programs.

21.3(1) *General program.* Each community college shall offer a general college parallel program of study leading to an associate of arts award or an associate of science award, pursuant to subrules 21.2(9) and 21.4(2). These programs shall offer courses equivalent to the first two years of a baccalaureate program and will not be discipline-specific.

21.3(2) *Transfer majors.* A community college may establish discipline-specific transfer major programs to improve student recruitment, advising, and success and enhance transferability of associate-level courses into aligned baccalaureate degree programs. The transfer major program will consist of discipline-relevant credits from an approved discipline framework that satisfies the requirements of paragraph 21.3(2)*"b."* A community college will ensure all students are appropriately advised regarding the availability, structure, purpose, and other pertinent information related to the transfer major program.

a. Degree option. A transfer major will be embedded within an associate of arts or associate of science degree that meets the requirements of this chapter and any applicable statewide transfer agreement between the Iowa community colleges and public universities. Credits within the transfer major may be utilized to fulfill the general education requirements of an associate of arts or associate of science degree, as appropriate.

b. Discipline framework. Each approved transfer major program will adhere to the appropriate adopted discipline framework to ensure transferability with the aligned baccalaureate program of study at one or more public universities in Iowa.

(1) A discipline framework consists of a minimum of 18 discipline-relevant semester credits (27 quarter credits) that align with a framework of elements based on accepted practices of an aligned baccalaureate degree program of study at a public university in Iowa.

(2) The courses within the discipline framework will articulate with a regionally accredited public university in Iowa so that the course credits are recognized by the university as fulfilling equivalent course requirements in at least one aligned baccalaureate degree program of study.

(3) If the provisions of subparagraph 21.3(2)*"b"*(2) cannot be achieved with at least one regionally accredited public university in Iowa, a request may be submitted to the department for articulation with a regionally accredited public institution in a contiguous state or a group of no less than three regionally accredited private postsecondary institutions that confer baccalaureate degrees, are based in Iowa, and are approved under Iowa Code chapter 256, subchapter VII, part 4, to operate in the state of Iowa.

(4) The discipline framework will be developed and adopted by a statewide committee convened by the department.

c. Use of term. Consistent with department guidance, each community college will exclusively use the term "transfer major" to record the completion of an approved transfer major program on the student's official transcript and other academic records, publish in the college catalog, and market the transfer major program to current and potential students and the general public. A community college shall not transcript, catalog, or market an associate of arts or associate of science program using other terms that contain or are synonymous with the term "major" or "transfer" or that imply a specialization within a subject area.

21.3(3) *Approval.* Pursuant to Iowa Code section 260C.14, each transfer major program will be submitted to the department for approval utilizing the state system for program management. Approval will be obtained prior to the enrollment of students in the transfer major program. The approval process does not include components specific to career and technical education program approval, including advisory committees and labor market analysis.

21.3(4) *Reporting.* Each community college will comply with data reporting requirements established by the department. The department shall produce and make available a report detailing enrollment and outcomes of participants in transfer major programs.

[**ARC 7790C**, IAB 4/17/24, effective 5/22/24]

281—21.4(260C) Curriculum and evaluation.

21.4(1) *General education.* General education is intended to provide breadth of learning to the community college experience. General education imparts common knowledge, promotes intellectual inquiry, and stimulates the examination of different perspectives, thus enabling people to function effectively in a complex and changing world. General education tends to emphasize oral and written communication, critical analysis of information, knowledge and appreciation of diverse cultures, ways of knowing and human expression, knowledge of mathematical processes and natural sciences investigations, and ethics. General education courses are not intended to be developmental in nature. Each community college is responsible for clarifying, articulating, publicizing, and assessing its general education program.

21.4(2) *College parallel or transfer.*

a. This program shall offer courses that are the equivalent of the first two years of a baccalaureate program and may also include such courses as may be necessary to develop skills that are prerequisite to other courses and objectives, specialized courses required to provide career options within the college parallel or transfer program, and approved transfer major programs meeting the requirements of rule 281—21.3(260C). College parallel or transfer programs are associate of arts and associate of science degree programs. General education courses in college parallel or transfer programs are required to be college transfer courses. Data will be collected and analyzed to determine how well students have succeeded and which adjustments in the curriculum, if any, need to be made.

b. Courses of a developmental or remedial nature or prefreshman level will not bear college transfer credit and will be clearly identified in the college catalog. Developmental courses on the transcript will be identifiable through the adoption of the community college common course numbering system.

21.4(3) *Career and technical education.* Instruction will be offered in career and technical education programs in no fewer than five different occupational fields as defined by the department. College parallel or transfer courses may be offered as needed in career and technical education programs. Career and technical education programs must meet program approval requirements set by the state board of education. The director's approval of new career and technical education programs is necessary. Instruction will be offered in career and technical education programs, ensuring that they are competency-based, contain all minimum competencies required by the department, articulate with local school districts' career and technical education programs, and comply with any applicable requirements in Iowa Code chapter 258. The occupational fields in which instruction is offered will be determined by merged area and geographical area needs as identified by surveys in these areas. Occupational advisory committees may be used to assist in developing and maintaining instructional content, including leadership development.

21.4(4) *Developmental education.* Students who enter community colleges underprepared for postsecondary coursework are provided opportunities to improve their cognitive and noncognitive skills via developmental education academic and student support services. In an effort to enhance these opportunities, while respecting the local authority of Iowa's community colleges, each college will adopt proven developmental education strategies to identify and address the needs of students, shorten the time to completion, prepare students for academic success, and reduce the financial burden for students underprepared for postsecondary coursework. Such proven strategies include multiple measures of placement; accelerated and integrated strategies, such as co-requisite models; and support services that address students' cognitive and noncognitive needs. These reform efforts require collaboration among community colleges, school corporations, and education stakeholders to systemically expand proven strategies to prepare students for postsecondary success.

21.4(5) *Adult and continuing education.* Adult education shall be offered and may include adult basic education, adult continuing and general education, college parallel or transfer, high school completion, supplementary and preparatory career education programs, and other programs and experiences as may be required to meet the needs of people in the merged area.

21.4(6) *Continuing education.* The community colleges shall provide a program of community services designed to meet the needs of persons residing in the merged area. The purpose of the continuing education program is to foster agricultural, business, cultural, industrial, recreational and social development in the area.

[**ARC 7790C**, IAB 4/17/24, effective 5/22/24]

281—21.5(260C) Nonreimbursable facilities. No facility intended primarily for events for which admission may be charged nor any facility specially designed for athletic or recreational activities, other than physical education, may be constructed with state-appropriated funds.

[**ARC 7790C**, IAB 4/17/24, effective 5/22/24]

281—21.6 to **21.19** Reserved.

The rules in this division are intended to implement Iowa Code chapter 260C and 2007 Iowa Acts, Senate File 601.

DIVISION II
INSTRUCTIONAL COURSE FOR DRINKING DRIVERS

281—21.20(321J) Course.

21.20(1) A course provided in accordance with Division II of this chapter will be offered on a regular basis at each community college or by a substance abuse treatment program licensed under Iowa Code chapter 125. However, a community college is not required to offer the course if a substance abuse treatment program licensed under Iowa Code chapter 125 offers the course within the merged area served by the community college. A course provided in accordance with Division II of this chapter may be offered at a state correctional facility listed in Iowa Code section 904.102.

21.20(2) The department will maintain a listing of all providers of approved courses in the state and publish this listing on the department's website.

21.20(3) Individuals who reside outside the state of Iowa and who are required by the state of Iowa to take a course for drinking drivers will have the opportunity to take the course in another state, provided the out-of-state course is comparable to those courses approved to be offered in the state of Iowa.

21.20(4) Enrollment in the course is not limited to persons ordered to enroll, attend, and successfully complete the course required under Iowa Code sections 321J.1 and 321J.17(2). Any person under the age of 18 who is required to attend the courses for violation of Iowa Code section 321J.2 or 321J.17 must attend a course offered by a substance abuse treatment program licensed under Iowa Code chapter 125.

21.20(5) An instructional course, including allowable delivery formats, will be approved by the department in consultation with the community colleges, substance abuse treatment programs licensed under Iowa Code chapter 125, the Iowa department of health and human services, and the Iowa department of corrections. The course will consist of at least 12 hours of instructional time. In-person instruction will be delivered over a minimum of a two-day period in blocks not to exceed four hours with a minimum of a 30-minute break between blocks. Each student attending a course will be provided with the appropriate course materials necessary to complete the course, which will not be reused. The course will be taught by an instructor certified by the curriculum provider to teach the course. Each course of instruction will establish the following:

a. An understanding that alcohol-related problems could happen to anyone and that a person's drinking choices matter. The course illustrates common views of society that prevent people from taking drinking choices seriously. Research is presented to challenge common views with an understanding that alcohol problems are related to lifestyle choices.

b. An understanding that specific low-risk choices will help reduce the risk of experiencing alcohol-related problems at any point in life. The course presents research-based, low-risk guidelines.

c. Methods of providing support for making low-risk choices.

d. An accurate description of the progression of drinking to the development of alcoholism to help people weigh the risk involved with high-risk drinking and to see how high-risk choices may jeopardize their lives and the lives of others.

e. Opportunities to develop a specific plan of action to follow through with low-risk choices. A list of community resources is provided for ongoing support and treatment as needed.

[**ARC 7790C**, IAB 4/17/24, effective 5/22/24]

281—21.21(321J) Tuition fee established.

21.21(1) Each person enrolled in an instructional course for drinking drivers will pay to the community college or a substance abuse treatment program licensed under Iowa Code chapter 125 a tuition fee of $140 for the approved 12-hour course, plus a reasonable course materials fee. The court may allow an offender to combine the required course with a program that incorporates jail time. Reasonable fees may be assessed for costs associated with lodging, meals, and security.

21.21(2) A person will not be denied enrollment in a course by reason of a person's indigency. For court-ordered placement, the court will determine a person's indigency. In all other instances, the community college, substance abuse treatment program licensed under Iowa Code chapter 125, or state correctional facility will determine indigence upon application.

[**ARC 7790C**, IAB 4/17/24, effective 5/22/24]

281—21.22(321J) Administrative fee established.

21.22(1) *Students enrolled in Iowa.* Each person enrolled in Iowa in an instructional course for drinking drivers under this chapter will be charged an administrative fee of $15. This fee is in addition to tuition and will be collected by the provider of the instructional course in conjunction with the tuition fee established under rule 281—21.32(321J). The administrative fee will be forwarded to the department on a quarterly basis as prescribed by the department. If a student has been declared by the court as indigent, no administrative fee will be charged to that student.

21.22(2) *Students enrolled in another state.* Each person enrolled outside the state of Iowa in an instructional course for drinking drivers under this chapter will be charged an administrative fee of $37.50.

This fee is in addition to tuition and will be paid directly to the department of education by the student. Upon payment of the fee, the department shall review the educational component of the course taken by the student and shall inform the department of transportation whether the educational component is approved by the department.
[**ARC 7790C**, IAB 4/17/24, effective 5/22/24]

281—21.23(321J) Advisory committee. A drinking driver education advisory committee is established by the department to serve in an advisory capacity to the department in matters relevant to the instructional course for drinking drivers. Membership on this committee will include representatives from agencies currently offering the instructional course for drinking drivers and may include other stakeholders.
[**ARC 7790C**, IAB 4/17/24, effective 5/22/24]

281—21.24 to **21.30** Reserved.

The rules in this division are intended to implement Iowa Code section 321J.22.

DIVISION III
STATE COMMUNITY COLLEGE FUNDING PLAN

281—21.31(260C) General. Funds appropriated by the general assembly to the department for general financial aid to community colleges shall be allocated to each community college in the manner defined in this chapter.

21.31(1) Distribution formula. Moneys appropriated by the general assembly from the general fund to the department for community college purposes for general state financial aid for a budget year shall be allocated to each community college by the department according to the provisions of Iowa Code section 260C.18C.

21.31(2) Each community college will provide student and financial information in the manner and form as determined by the department and before the deadline announced by the department. If the community college fails to provide the student or financial information as required, the department will estimate the full-time equivalent enrollment (FTEE) of that college that will be used in the state general aid distribution formula.

21.31(3) Each community college is required to hire an auditing firm to complete and submit the schedule of credit-hour and contact-hour enrollment and a letter certifying that specified department of education procedures were followed. These schedules will be used in calculating the college's FTEE utilized in the community college state general aid distribution formula.
[**ARC 7790C**, IAB 4/17/24, effective 5/22/24]

281—21.32 to **21.40** Reserved.

The rules in this division are intended to implement Iowa Code section 260C.18C.

DIVISION IV
APPRENTICESHIP PROGRAM

281—21.41(260C) Definitions. For the purpose of Division IV, the following definitions apply:

"Apprentice" means a worker at least 16 years of age, except where a higher minimum age standard is otherwise fixed by law, who is employed to learn a skilled trade or occupation under the standards of apprenticeship.

"Apprenticeable occupation" means a skilled trade that possesses all of the following characteristics:

1. It is customarily learned in a practical way through a structured, systematic program of on-the-job, supervised training.
2. It is clearly identified and commonly recognized throughout an industry.
3. It involves manual, mechanical or technical skills and knowledge that require a minimum of 2,000 hours of on-the-job work experience.

4. It requires related instruction to supplement on-the-job training.

"Apprenticeship agreement" means a written agreement between an apprentice and the apprentice's employer, or an apprenticeship committee acting as the agent for the employer(s). The agreement contains the terms and conditions of the employment and training of the apprentice.

"Apprenticeship committee" means those persons designated by the sponsor to act for it in the administration of the program. A committee may be "joint," i.e., composed of an equal number of representatives of the employer(s) and of the employees represented by a bona fide collective bargaining agent(s), and is established to conduct, operate, or administer an apprenticeship program and enter into apprenticeship agreements with apprentices. A committee may be "unilateral" or "nonjoint" and shall mean a program sponsor in which a bona fide collective bargaining agent is not a participant.

"Apprenticeship program" means a plan containing all terms and conditions for the qualification, recruitment, selection, employment and training of apprentices, including such matters as required under 29 CFR Parts 29 and 30, as effective on February 7, 2024, including the requirement for a written apprenticeship agreement.

"Cancellation" means the termination of the registration or approval status of a program at the request of the sponsor or termination of an apprenticeship agreement at the request of the apprentice.

"Certification" or *"certificate"* means documentary evidence that at least one of the following has been met:

1. The Office of Apprenticeship has approved a set of National Guidelines for Apprenticeship Standards developed by a national committee or organization, joint or unilateral, or policy or guideline used by local affiliates, as conforming to the standards of apprenticeship set forth in 29 CFR Section 29.5, as effective on February 7, 2024;

2. A registration agency has established that an individual is eligible for probationary employment as an apprentice under a registered apprenticeship program;

3. A registration agency has registered an apprenticeship program as evidenced by a certificate of registration or other written indicia;

4. A registration agency has determined that an apprenticeship has successfully met the requirements to receive an interim credential; or

5. A registration agency has determined that an individual has successfully completed an apprenticeship.

"Competency" means the attainment of manual or technical skill and knowledge as specified by an occupational standard.

"Employer" means any person or organization employing an apprentice whether or not such person or organization is a party to an apprenticeship agreement with the apprentice.

"Office of Apprenticeship" mean the office designated by the Employment and Training Administration to administer the National Apprenticeship System or its successor organization.

"Registration agency" shall mean the Office of Apprenticeship.

"Registration of an apprenticeship agreement" means the acceptance and recording of an apprenticeship agreement by the Office of Apprenticeship as evidence of the apprentice's participation in a particular registered apprenticeship program.

"Related instruction" or *"related technical instruction"* means an organized and systematic form of instruction designed to provide the apprentice with the core knowledge of the theoretical and technical subjects related to the apprentice's occupation. Such instruction may be given in a classroom through occupational or industrial courses, by correspondence courses of equivalent value, by electronic media, or by other forms of self-study approved by the registration agency.

"Sponsor" means any person, association, committee or organization operating an apprenticeship program and in whose name the program is (or is to be) registered or approved.

[**ARC 7790C**, IAB 4/17/24, effective 5/22/24; **ARC 8240C**, IAB 10/2/24, effective 11/6/24]

281—21.42(260C) Apprenticeship programs. For an apprenticeship program to be offered by a community college or a local educational agency, the program must be approved by the U.S. Department of Labor, Office of Apprenticeship, and meet all requirements outlined in the National Apprenticeship Act, 29

U.S.C. §50, 29 CFR Parts 29 and 30, all as effective on February 7, 2024, or as specified in Iowa Code chapter 84D.
[**ARC 7790C**, IAB 4/17/24, effective 5/22/24; **ARC 8240C**, IAB 10/2/24, effective 11/6/24]

281—21.43 to **21.49** Reserved.

The rules in this division are intended to implement Iowa Code section 260C.44 and the National Apprenticeship Act, 29 U.S.C. §50, and 29 CFR Parts 29 and 30.

DIVISION V
MISCELLANEOUS PROVISIONS

281—21.50(260C,322) Used motor vehicle dealer education program. An applicant for a license from the department of transportation as a used motor vehicle dealer will complete a minimum of eight hours of prelicensing education program courses pursuant to Iowa Code section 322.7A prior to submitting the application. The education program courses are provided by community colleges or by the Iowa Independent Automobile Dealers Association in conjunction with a community college. The reasonable fee for both the prelicensing education program courses and continuing education courses will not exceed $55 per contact hour of instruction, which includes course materials and administrative costs.
[**ARC 7790C**, IAB 4/17/24, effective 5/22/24]

281—21.51 to **21.59** Reserved.

The rules in this division are intended to implement Iowa Code chapter 260C and section 322.7A.

DIVISION VI
COMMUNITY COLLEGE ACCREDITATION

281—21.60(260C) Scope. Each community college is subject to accreditation by the state board of education, as provided in Iowa Code section 260C.47. The state board of education will grant accreditation if a community college meets the standards established in this chapter.
[**ARC 7790C**, IAB 4/17/24, effective 5/22/24]

281—21.61(260C) Accreditation components and criteria—Higher Learning Commission. To be accredited by the state board of education and maintain accreditation status, a community college must meet the accreditation criteria of the Higher Learning Commission and additional state standards. Documents and materials provided in accordance with the accreditation requirements of the Higher Learning Commission will also be provided to the department for the state accreditation process.
[**ARC 7790C**, IAB 4/17/24, effective 5/22/24]

281—21.62(260C) Accreditation components and criteria—additional state standards. To be granted accreditation by the state board of education, an Iowa community college will also meet additional standards pertaining to minimum or quality assurance standards for faculty (Iowa Code section 260C.48(1)); faculty load (Iowa Code section 260C.48(2)); special needs and protected classes (Iowa Code section 260C.48(3)); career and technical education program evaluation (Iowa Code section 256.130(7)); facilities, parking lots and roads; institutional effectiveness and outcomes-based planning; quality faculty plan (Iowa Code section 260C.36); senior year plus programs (Iowa Code chapter 261E); and student services; as well as any other items referenced in this chapter.

21.62(1) *Faculty.*

a. Community college-employed instructors who teach college credit courses shall meet minimum standards and institutional quality faculty plan requirements. Standards will at a minimum require that all community college instructors meet the following requirements:

(1) Instructors teaching courses in the area of career and technical education will be registered, certified, or licensed in the occupational area in which the state requires registration, certification, or licensure and shall meet at least one of the following qualifications:

1. Possess a baccalaureate degree or higher in the field of instruction in which the instructor teaches classes, or possess a baccalaureate degree in any area of study if at least 18 of the credit hours completed were in the career and technical field of instruction in which the instructor teaches classes.

2. Possess an associate degree in the career and technical education field of instruction in which the instructor is teaching, if such degree is considered terminal for that field of instruction, and have at least 3,000 hours of recent and relevant work experience in the occupational area or related occupational area in which the instructor teaches classes.

3. Have special training and at least 6,000 hours of relevant tested experience in the occupational area or related occupational area in which the instructor teaches classes if the instructor possesses less than a baccalaureate degree in the area or related area of study or occupational area in which the instructor is teaching classes and the instructor does not meet the requirements of subparagraph 21.62(1)*"a"*(2).

(2) For purposes of numbered paragraphs 21.62(1)*"a"*(1)"2" and "3," if the instructor is a licensed practitioner who holds a career and technical endorsement under Iowa Code chapter 256, subchapter VII, part 3, relevant work experience in the occupational area includes, but is not limited to, classroom instruction in a career and technical education subject area offered by a school district or accredited nonpublic school.

(3) Instructors in the area of arts and sciences shall meet the following qualifications set forth in Iowa Code section 260C.48.

b. For courses identified as applied liberal arts and sciences, possess at least a bachelor's degree and a combination of formal training and professional tested experience equivalent to 6,000 hours. The instructor shall hold the appropriate registration, certification, or licensure in occupational areas in which such credential is necessary for practice.

c. Developmental education instructors will possess a minimum of a bachelor's degree. Noncredit instructors are not subject to the standards in this subrule.

d. Adult education instructors will meet the minimum standards set forth in 877—Chapter 32. Instructional staff providing instruction in an adult education and literacy program to students must possess at minimum a bachelor's degree.

e. A faculty standards council will be convened by the department to review procedures for establishing and reviewing minimum instructor qualifications and definitions for "field of instruction," "applied liberal arts and sciences courses," "qualifying graduate field or major," and "relevant tested experience." Definitions will be based on accepted practices of regionally accredited two- and four-year institutions of higher education.

(1) The council will include faculty and academic administrators and meet at least annually. The council will make recommendations to a committee consisting of the chief academic officers of Iowa's 15 community colleges. The committee will adopt definitions and minimum faculty qualification standards to be utilized for the state accreditation process. Each community college will adhere to the adopted definitions and minimum faculty qualification standards.

(2) When utilizing relevant tested experience to qualify an instructor to teach classes within a specific field of instruction, each community college will maintain well-defined policies, procedures, and documentation in alignment with the adopted definitions and minimum faculty qualification standards. This documentation will demonstrate that the instructor possesses the experience and expertise necessary to teach in the specified field of instruction and is current in the instructor's discipline. When tested experience is assessed, an hour of relevant work is equal to 60 minutes and one full-time year of relevant work is equal to 2,000 hours.

21.62(2) *Faculty load.*

a. Arts and sciences. The full-time teaching load of an instructor in arts and sciences courses will be 15 credit hours within a traditional semester or the equivalent and will not exceed a maximum of 16 credit hours within a traditional semester or the equivalent. An instructor may also have an additional teaching assignment beyond the maximum academic workload, provided the instructor and the community college

administration mutually consent to this additional assignment and the total workload does not exceed the equivalent of 22 credit hours within a traditional semester or the equivalent.

b. Career and technical education. The full-time teaching load of an instructor in career and technical education programs will not exceed an aggregate of 30 hours per week or the equivalent. An instructor may also teach the equivalent of an additional three credit hours, provided the instructor consents to this additional assignment. When the teaching assignment includes classroom subjects (nonlaboratory), consideration will be given to establishing the teaching load more in conformity with that of paragraph 21.62(2)*"a."*

21.62(3) *Special needs and protected classes.* Community colleges shall provide equal access to the full range of program offerings and services including recruitment, enrollment, and placement activities for students with special education needs or protected by state or federal civil rights regulations. Students with disabilities shall be given access to the full range of program offerings at a college through reasonable accommodations.

21.62(4) *Career and technical education evaluation.* The community college career and technical program review and evaluation system must ensure that the programs meet requirements as specified in 281—Chapter 46.

21.62(5) *Facilities, parking lots and roads.*

a. Infrastructure and facilities master planning. Each community college shall present evidence of adequate planning, including a board-approved plan that includes facilities, technology, and campus safety. At a minimum, the plan will include scheduling periodic maintenance, planning for facilities and infrastructure expansions and renovations, major equipment upgrades, and processes for continuity of service and instruction.

b. Adequate facilities. The site, buildings and equipment of the community college will be well maintained and in good condition. The physical plant and technological infrastructure will be adequate in size and properly equipped for the program offered. All remodeling of existing facilities will comply with Iowa Code chapter 104A and the federal Americans with Disabilities Act, 42 U.S.C. §12101 et seq.

c. Accessibility and safety. All new or remodeled facilities (buildings and programs offered in such facilities) and services in such facilities shall be made functional and usable for persons with special needs, comply with Iowa Code chapter 104A and the Americans With Disabilities Act, 42 U.S.C. §12101, and address issues of campus safety and security as required by Iowa Code chapter 260C and by the federal Clery Act, 20 U.S.C. §1092(f). All parking areas and roads will comply with all state and federal rules and regulations dealing with roads, parking ramps, and accessibility requirements.

d. Library or learning resource center. A library or learning resource center will be planned as part of the master campus plan and space made for library or learning resource center services within the initial construction.

(1) Facilities. Community college libraries or learning resource centers shall provide the facilities and resources needed to support the total educational program of the institution and shall show evidence that the facilities and the resources are being used effectively and efficiently. Adequate consideration shall be given to the seating, comfort, setting, and technology of the facility used to house the collection and learning resources.

(2) Staffing. The library or learning resource center will be adequately staffed with qualified professionals and skilled nonprofessional personnel.

(3) Collection. The library and learning resource center materials collection of a community college shall be accessible and adequate in size and scope to serve effectively the number and variety of programs offered and the number of students enrolled, including distance and satellite sites. The library and learning resource center materials collection will show evidence of having been selected by faculty as well as professional library or learning resource staff and shall be kept up to date through a planned program of acquisition and deletion.

(4) Expenditures. The budget of the library or learning resource center will be appropriate for the programs and services offered by the institution. New programs and new curricula will be reflected in library or learning resource center expenditures.

e. Student center. An area of the college will be provided where students may gather informally and where food is available.

f. Laboratories, equipment and supplies. Laboratories, equipment and supplies will be comparable with those used in the occupations for which instruction is offered. Similarly, college parallel or transfer courses will be supported in a manner comparable to those conditions that prevail in standard, regionally accredited colleges and universities to which students may wish to transfer college credits.

21.62(6) *Institutional effectiveness and outcomes-based planning.*

a. Institutional effectiveness. The community college will prepare a high-quality, board-approved strategic plan that is regularly reviewed and revised, at least once every five years. The plan will guide the college and its decision-making. It will contain a list of goals, objectives and metrics and will be developed with input from internal and external stakeholders. The college should regularly track and communicate progress towards meeting plan goals.

b. Outcomes-based planning. The community college will review outcomes data regularly provided by the department and illustrate how the data informs institutional decision making in order to meet the plan goals identified in paragraph 21.62(6)*"a."*

21.62(7) *Quality faculty plan.* The community college will establish a quality faculty committee consisting of instructors and administrators to develop and maintain a plan for hiring and developing quality faculty. Each college will comply with the appropriate standards defined in Iowa Code section 260C.36.

21.62(8) *Senior year plus.* The community college shall provide access to joint enrollment opportunities for high school age students. Each college will comply with the appropriate standards defined in Iowa Code chapter 261E.

21.62(9) *Student services.* A program of student services will be provided to meet the needs of students in the community college. Services will be reviewed periodically and incorporated into the college's planning for effectiveness. The program of student services, at a minimum, will include the following functional areas:

a. A systematic onboarding process that includes recruitment, evaluation and support of college readiness, orientation to college processes and policies, and initial program and course selection.

b. Programs and resources to help students understand how to finance college, including access to federal, state and local financial aid to facilitate community college enrollment and completion.

c. A student-centered advising program related to career and academic goals focused on persistence, retention, completion, and transition to further education or employment.

d. Campus safety and security as required by Iowa Code chapter 260C; the federal Clery Act, 20 U.S.C. §1092(f); and 34 CFR Section 668.46.

e. Opportunities for students to participate in experiences and programs that supplement classroom learning experiences and provide an optimal climate for social and academic development.

21.62(10) *Effective dates of federal law.* All references to federal law in this rule are to those versions in effect on February 7, 2024.

[**ARC 7790C**, IAB 4/17/24, effective 5/22/24; **ARC 8240C**, IAB 10/2/24, effective 11/6/24; **ARC 9102C**, IAB 4/16/25, effective 5/21/25]

281—21.63(260C) Accreditation process.

21.63(1) *Components.* The community college accreditation process includes the following components:

a. Each community college will submit information on an annual basis to the department of education to comply with program evaluation requirements adopted by the state board of education.

b. The department will conduct a comprehensive on-site accreditation evaluation of each community college on a ten-year interval. An interim evaluation midway between comprehensive evaluations will also be conducted. The format, length and scope of the interim evaluation will be determined by the department based on the results of the most recent comprehensive evaluation and an analysis of desk review materials and annual outcomes data prepared by the department. The department will prepare a staggered evaluation schedule that sets no more than three comprehensive or interim evaluations in any one year. No comprehensive or interim evaluation will be required for continued accreditation prior to a community

college's first evaluation under the schedule. The department has the authority to conduct focused evaluation visits as needed.

21.63(2) *Accreditation team.* The size and composition of the accreditation team is determined by the director of the department, but the team will include members of the department staff and staff members from community colleges other than the community college being evaluated for accreditation, and any other technical experts as needed.

21.63(3) *Accreditation team action.* After a visit to a community college, the accreditation team shall evaluate whether the accreditation standards have been met and shall make a report to the director of the department and the state board of education, together with a recommendation as to whether the community college shall remain accredited. The accreditation team will report strengths and opportunities for improvement, if any, for each standard and criterion and will advise the community college of available resources and technical assistance to further enhance strengths and address areas for improvement. A community college may respond to the accreditation team's report.

21.63(4) *State board of education consideration of accreditation.* The state board of education will determine whether a community college remains accredited. Approval of accreditation for a community college by the state board of education will be based upon the recommendation of the director of the department after study of the factual and evaluative evidence on record pursuant to the standards and criteria described in this chapter, and based upon the timely submission of information required by the department in a format provided by the department. With the approval of the director of the department, a focused visit may be conducted if the situation at a particular college warrants such a visit.

a. Accreditation granted. Continuation of accreditation, if granted, will be for a ten-year term with a comprehensive evaluation occurring once every ten years and an interim evaluation midway between comprehensive evaluations; however, approval for a lesser term may be granted by the state board of education if the board determines that conditions so warrant.

b. Accreditation denied or conditional accreditation. If the state board of education denies accreditation or grants conditional accreditation, the director of the department, in cooperation with the board of directors of the community college, will establish a plan prescribing the procedures that must be taken to correct deficiencies in meeting the standards and criteria and will establish a deadline for correction of the deficiencies. The plan will be submitted to the director within 45 days following the notice of accreditation denial or conditional accreditation. The plan will include components that address correcting deficiencies, sharing or merger options, discontinuance of specific programs or courses of study, and any other options proposed by the state board of education or the accreditation team to allow the college to meet the accreditation standards and criteria.

c. Implementation of plan. During the time specified in the plan for its implementation, the community college remains accredited. The accreditation team will revisit the community college to evaluate whether the deficiencies in the standards or criteria have been corrected and will make a report and recommendation to the director and the state board of education. The state board of education will review the report and recommendation, may request additional information and determine whether the deficiencies have been corrected.

d. Removal of accreditation. The director will give a community college that fails to meet accreditation standards, as determined by the state board of education, at least one year's notice prior to removal of accreditation. The notice will be sent by certified mail or restricted certified mail addressed to the chief executive officer of the community college and will specify the reasons for removal of accreditation. The notice will also be sent to each member of the board of directors of the community college. If, during the year, the community college remedies the reasons for removal of accreditation and satisfies the director that the community college will comply with the accreditation standards and criteria in the future, the director will continue the accreditation and will transmit notice of the action to the community college by certified mail or restricted certified mail.

e. Failure to correct deficiencies. If the deficiencies have not been corrected in a program of a community college, the provisions of Iowa Code section 260C.47(5) apply.

f. Appeal process provided. The action of the director to remove the state accreditation of a community college program may be appealed to the state board of education as provided in Iowa Code section 260C.47(7).

[**ARC 7790C**, IAB 4/17/24, effective 5/22/24; **ARC 9102C**, IAB 4/16/25, effective 5/21/25]

The rules in this division are intended to implement Iowa Code section 256.130(7) and chapters 260C and 261E.

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◊ Two or more ARCs

CHAPTER 22
SENIOR YEAR PLUS PROGRAM

Chapter rescission date pursuant to Iowa Code section 17A.7: 7/17/29

DIVISION I
GENERAL PROVISIONS

281—22.1(261E) Definitions. For the purposes of this chapter, the indicated terms are defined as follows:

"Concurrent enrollment" means the same as defined in Iowa Code section 261E.2(1).

"Department" means the department of education.

"Director" means the director of the department of education.

"Dually enrolled" means the status of a student who receives competent private instruction under Iowa Code chapter 299A and whose parent, guardian, or legal custodian has registered the student pursuant to Iowa Code section 299A.8 in a school district for any of the purposes listed therein, including, for purposes of these rules, participation in any part of the senior year plus program on the same basis as public school students but subject to the enrollment limitation contained in 281—Chapter 31.

"Eligible postsecondary institution" means the same as defined in Iowa Code section 261E.2(4).

"Institution" means the same as defined in Iowa Code section 261E.2(5).

"School board" means the board of directors of a school district or a collaboration of boards of directors of school districts.

"State board" means the state board of education.

"Student" means the same as defined in Iowa Code section 261E.2(8).

[**ARC 8048C**, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 10/2/24]

281—22.2(261E) Student eligibility. A student is eligible if the student satisfies the provisions of Iowa Code section 261E.3(1). If the student was absent for the most recent administration of the statewide assessment, and such absence was not excused by the student's school of enrollment, the student is deemed not to be proficient in any of the content areas. Measures of college readiness may be jointly agreed upon by the school board and the eligible postsecondary institution that allow a student to demonstrate competency in one or all of the required subject areas. Institutions will ensure the following:

22.2(1) The measures of college readiness align with the proficiency levels established for the statewide assessment and reflect the competence of entering first-year students at the postsecondary institution.

22.2(2) The measures of college readiness are specified in a contract entered into by the participating institutions.

[**ARC 8048C**, IAB 6/12/24, effective 7/17/24]

281—22.3(261E) Teacher eligibility, responsibilities. A teacher employed to provide instruction under this chapter is eligible if the teacher satisfies the criteria and responsibilities of Iowa Code section 261E.3(2). The background investigation also applies to a teacher or instructor who is employed by an eligible postsecondary institution if the teacher or instructor provides instruction under this chapter at a school district facility, an accredited nonpublic school facility, or a neutral site. For purposes of this rule, "neutral site" means the same as defined in Iowa Code section 261E.3(2).

[**ARC 8048C**, IAB 6/12/24, effective 7/17/24]

281—22.4(261E) Institutional eligibility, responsibilities.

22.4(1) *General.* Institutions are governed by the provisions of Iowa Code section 261E.3(3).

a. If a fee is charged to other students of the eligible postsecondary institution for any of the services specified in Iowa Code section 261E.3(3)*"b,"* that fee may also be charged to participating secondary students on the same basis as it is charged to postsecondary students.

b. The institutions will provide the teacher or instructor appropriate orientation and training in secondary and postsecondary professional development related to curriculum, pedagogy, assessment, policy implementation, technology, and discipline issues.

c. The institutions will provide the teacher or instructor adequate notification of an assignment to teach a course under this chapter, as well as adequate preparation time to ensure that the course is taught at the college level. The specifics of this paragraph are locally determined.

22.4(2) *Requirements of school district or accredited nonpublic school only.*

a. Except as provided under Iowa Code sections 257.11(3)*"c,"*261E.8(2)*"b,"* and 279.50A, the school district or accredited nonpublic school shall certify annually to the department, as an assurance in the district's or accredited nonpublic school's basic education data survey, that the course provided to a high school student for postsecondary credit in accordance with this chapter supplements, and does not supplant, a course provided by the school district or accredited nonpublic school in which the student is enrolled. For purposes of these rules, to comply with the supplement-not-supplant requirement, the content of a course provided to a high school student for postsecondary credit is not to consist of substantially the same concepts and skills as the content of a course provided by the school district or accredited nonpublic school.

b. If the teacher or instructor is employed by an eligible postsecondary institution, the school district or accredited nonpublic school will pay for the background investigation but may request reimbursement of the actual cost to the eligible postsecondary institution.

22.4(3) *Requirements of eligible postsecondary institution only.*

a. All eligible postsecondary institutions providing programming under this chapter will include the unique student identifier assigned to students while in the kindergarten through grade 12 system as a part of the institution's student data management system.

(1) Eligible postsecondary institutions providing programming under this chapter will cooperate with the department on data requests related to the programming.

(2) All eligible postsecondary institutions providing programming under this chapter are to collect data and report to the department on the proportion of females and minorities enrolled in science-, technology-, engineering-, and mathematics-oriented educational opportunities provided in accordance with this chapter.

b. The eligible postsecondary institution will provide the teacher or instructor with ongoing communication and access to instructional resources and support and encourage the teacher or instructor to participate in the postsecondary institution's academic departmental activities.

[**ARC 8048C**, IAB 6/12/24, effective 7/17/24]

DIVISION II
ADVANCED PLACEMENT PROGRAM

281—22.5(261E) School district obligations. School districts will make advanced placement courses available to students under the terms of Iowa Code section 261E.4, including making such coursework available to a dually enrolled student under competent private instruction or to a student enrolled in an accredited nonpublic school located in the district if the student meets the same criteria as a regularly enrolled student of the district. An international baccalaureate program is not an advanced placement program.

[**ARC 8048C**, IAB 6/12/24, effective 7/17/24]

281—22.6(261E) Obligations regarding registration for advanced placement examinations. The board of directors of a school district or authorities in charge of an accredited nonpublic school are governed by Iowa Code section 261E.5.

[**ARC 8048C**, IAB 6/12/24, effective 7/17/24]

DIVISION III
CONCURRENT ENROLLMENT PROGRAM

281—22.7(261E) Applicability. The concurrent enrollment program, also known as district-to-community college sharing, is subject to the provisions of Iowa Code section 261E.8. A student enrolled in a career and technical course under this division does not have to meet the proficiency requirements set forth in Iowa Code section 261E.3(1)*"e."*

22.7(1) *Auditing not allowed.* Students are not permitted to audit a concurrent enrollment course; students are to take the course for credit.

22.7(2) *Funding.* Regardless of whether a district receives supplementary weighted funding, the district will not charge tuition to any of its students who participate in a concurrent enrollment course.

22.7(3) *Data collection.* Institutions participating in the program established by this rule will comply with data reporting and verification processes established by the department, including the data elements set forth in Iowa Code section 261E.8(9).

22.7(4) *Private instruction.* Students in independent private instruction or in competent private instruction under Iowa Code chapter 299A may access courses under this division without the course limit contained in 281—Chapter 31.

[**ARC 8048C**, IAB 6/12/24, effective 7/17/24; Editorial change: IAC Supplement 10/2/24]

281—22.8(261E) Accredited nonpublic school concurrent enrollment option.

22.8(1) *Authorization.* In addition to enrollment through a school district as authorized under rule 281—22.7(261E), students enrolled at an accredited nonpublic school may access concurrent enrollment coursework through a direct contract between the authorities in charge of an accredited nonpublic school and a community college.

22.8(2) *General.* For any coursework delivered through a contract established pursuant to this rule, students, institutions, and instructors will meet the requirements for concurrent enrollment established under rule 281—22.7(261E). However, such coursework is not eligible for funding under that rule.

22.8(3) *Funding.* Subject to the appropriation of funds by the Iowa legislature for such purposes, coursework delivered through a contract between the authorities in charge of an accredited nonpublic school and a community college pursuant to this rule may be eligible for funding under rule 281—97.7(257).

22.8(4) *Data collection.* Institutions participating in a contract pursuant to this rule are to comply with data reporting and verification processes established by the department.

[**ARC 8048C**, IAB 6/12/24, effective 7/17/24]

DIVISION IV
POSTSECONDARY ENROLLMENT OPTIONS PROGRAM

281—22.9(261E) Postsecondary enrollment options program—general. The postsecondary enrollment options (PSEO) program is established pursuant to the terms of Iowa Code section 261E.6. PSEO programming provided by a school district pursuant to this division may be but is not required to be available to students on a year-round basis.

[**ARC 8048C**, IAB 6/12/24, effective 7/17/24]

281—22.10(261E) Student eligibility. Student eligibility is described in Iowa Code section 261E.6(6). Persons who have graduated from high school are not eligible for this program. Students who are not residents of Iowa are not eligible.

22.10(1) A student enrolled in an accredited nonpublic school who meets all eligibility requirements may apply to take courses under this division in the school district where the accredited nonpublic school is located, provided that neither the accredited nonpublic school nor the school district offers a comparable course.

22.10(2) A student under competent private instruction who meets the eligibility requirements in this chapter may apply to take courses under this division through the public school district in which the student is dually enrolled, provided that the resident school district does not offer a comparable course.

22.10(3) Postsecondary institutions may require students to meet appropriate standards or requirements for entrance into a course, which may include prerequisite courses, scores on national academic aptitude and achievement tests, or other evaluation procedures to determine competency. Acceptance of a student into a course by a postsecondary institution is not a guarantee that a student will be enrolled in all requested courses. Priority may be given to postsecondary students before eligible secondary students are enrolled in courses. However, once an eligible secondary student has enrolled in a postsecondary course, the student cannot be displaced by another student for the duration of the course. Students must take the course for credit (no auditing of courses allowed) and meet all of the requirements of the course that are required of postsecondary students.

[**ARC 8048C**, IAB 6/12/24, effective 7/17/24]

281—22.11(261E) Eligible postsecondary courses. These rules are intended to implement the policy of the state to promote rigorous academic pursuits.

22.11(1) Postsecondary courses eligible for students to enroll in under this division are limited to:

a. Nonsectarian courses;

b. Courses that are not comparable to courses offered by the school district where the student attends that are defined in rules adopted by the board of directors of the public school district. For purposes of these rules, "comparable" is not synonymous with "identical," but means that the content of a course provided to a high school student for postsecondary credit consists of substantially the same concepts and skills as the content of a course provided by the school district or accredited nonpublic school;

c. Credit-bearing courses that lead to an educational degree;

d. Courses in the discipline areas of mathematics, science, social sciences, humanities, and vocational-technical education; and also the courses in career option programs offered by area schools established under the authorization provided in Iowa Code chapter 260C.

22.11(2) A school district or accredited nonpublic school will grant academic or vocational-technical credit to an eligible student enrolled in an eligible postsecondary course.

22.11(3) A course is ineligible for purposes of this rule if the school district has a contractual agreement with the eligible postsecondary institution under Iowa Code section 261E.8 that meets the requirements of Iowa Code section 257.11(3) and if the course may be delivered through such an agreement in accordance with Iowa Code section 257.11(3).

22.11(4) Matters pertaining to the granting and awarding of credit are set forth in Iowa Code section 261E.6(4).

[**ARC 8048C**, IAB 6/12/24, effective 7/17/24]

281—22.12(261E) Application process. The application process is set forth in Iowa Code section 261E.6(3).

[**ARC 8048C**, IAB 6/12/24, effective 7/17/24]

281—22.13(261E) Transportation. The parent or guardian of an eligible student who has enrolled in and is attending an eligible postsecondary institution under this division is solely responsible to furnish transportation to and from the postsecondary institution for the student.

[**ARC 8048C**, IAB 6/12/24, effective 7/17/24]

281—22.14(261E) Payments, claims, and reimbursements. Payments, claims, and reimbursements, including reimbursements and adjustments, under this division are set forth in Iowa Code section 261E.7.

[**ARC 8048C**, IAB 6/12/24, effective 7/17/24]

DIVISION V
CAREER ACADEMIES

281—22.15(261E) Career academies. A career academy is defined in Iowa Code section 258.6. Career academies are established and governed by Iowa Code section 261E.10, which is incorporated by this reference. A course offered by a career academy will not qualify as a regional academy course.
[**ARC 8048C**, IAB 6/12/24, effective 7/17/24]

DIVISION VI
REGIONAL ACADEMIES

281—22.16(261E) Regional academies. A regional academy is a program established and governed by Iowa Code section 261E.9, which is incorporated by this reference. School districts participating in a regional academy pursuant to this rule are to comply with the application and verification processes established by the department.
[**ARC 8048C**, IAB 6/12/24, effective 7/17/24]

DIVISION VII
INTERNET-BASED COURSEWORK

281—22.17(261E) Internet-based coursework. The programming in this chapter may be delivered as specified in Iowa Code section 261E.11.
[**ARC 8048C**, IAB 6/12/24, effective 7/17/24]

DIVISION VIII
PROJECT LEAD THE WAY

281—22.18(261E) Project lead the way.

22.18(1) *Program established.* A project lead the way program is established to be administered by the department to promote rigorous science, technology, engineering, and mathematics pursuits.

22.18(2) *Notification.* A school district shall provide descriptions of the project lead the way courses available to students using a course registration handbook. The handbook is to identify which courses, if successfully completed, generate college credit under the program. Information about available project lead the way courses is to be provided to every junior high school student or middle school student prior to the development of a core curriculum plan pursuant to Iowa Code section 279.61.

22.18(3) *Access.* Students from accredited nonpublic schools and students receiving competent private instruction under Iowa Code chapter 299A may access the program through the school district in which the accredited nonpublic school or private institution is located.

22.18(4) *Curriculum.* A school district offering a project lead the way program will offer the curriculum developed by the national organization that administers the project lead the way program.

22.18(5) *Instructor.* A school district will ensure that a teacher or instructor employed to provide instruction under this rule meets the following additional criteria:

a. The teacher has successfully completed the training required by the national organization that administers the project lead the way program.

b. The teacher meets the minimum requirements of the national organization that administers the project lead the way program.

c. The teacher participates, on a regular basis, in available professional development provided by the national organization that administers the project lead the way program.

22.18(6) *Accreditation standards.*

a. A project lead the way course may apply toward high school program accreditation standards pursuant to 281—Chapter 12. To meet the requirement, the instructor must be appropriately licensed and endorsed by the board of educational examiners to teach the subject area of the accreditation standard.

b. If the project lead the way course being taught is within a career and technical education program or is one in a sequence of project lead the way courses that collectively are used to meet one of the career and technical education sequential unit requirements of 281—Chapter 12, the program must be approved by the department pursuant to 281—Chapter 46.

22.18(7) *Collaborative project lead the way courses.*

a. A collaborative program for project lead the way courses is established to be administered by the department to promote rigorous science, technology, engineering, and mathematics pursuits in partnership with a community college established under Iowa Code chapter 260C. The program is to be made available to all resident students in grades 9 through 12.

b. A comparable course, as defined in rules adopted by the board of directors of the school district consistent with department administrative rule, is not offered by the school district or accredited nonpublic school the student attends.

c. A school district is to be certified by the national organization that administers the project lead the way program and have a signed agreement with that organization.

d. To be eligible, institutions, instructors, and students are to meet the provisions of Iowa Code section 261E.3.

e. A school district may set additional eligibility requirements to ensure student readiness to achieve success. All students in the shared course are to meet the expectations of the national organization that administers the project lead the way program and be registered for college credit.

f. A district-to-community college sharing program for project lead the way courses that meets the requirements of 281—subrule 97.2(6) is eligible for funding under that provision for collaborative project lead the way career and technical education courses.

22.18(8) *Credit.*

a. The school district shall grant high school credit to a student enrolled in a project lead the way course not offered by a community college. At a school district's discretion, a project lead the way course may count toward a school district's graduation requirements provided that the teacher is licensed by the board of educational examiners and endorsed within the subject area of the graduation requirement.

b. The school district shall grant high school credit to a student enrolled in a project lead the way course for college credit under this chapter if the student successfully completes the course as determined by the community college and the course was previously approved by the school board pursuant to Iowa Code section 261E.8(3). If a student is not successful in completing a project lead the way course as determined by the community college, the student's high school transcript will reflect the failing grade. The board of directors of the school district determines the number of high school credits to be granted to a student who successfully completes a project lead the way course.

c. The school district may offer a project lead the way course as an articulated course. Articulated courses are offered through an agreement between the district and the postsecondary institution that allows students to receive college credit at the postsecondary institution upon matriculation based on the demonstrated mastery of concepts in the high school course. An articulated course shall not be delivered by a postsecondary institution.

[**ARC 8048C**, IAB 6/12/24, effective 7/17/24]

DIVISION IX
SUMMER COLLEGE CREDIT PROGRAM

281—22.19(261E) Summer college credit program.

22.19(1) *Program established.* A summer college credit program is established to expand access for high school students to high-quality career and technical education experiences aligned with career pathways leading to postsecondary credentials and high-demand jobs. Programs approved under subrule 22.19(3) will be offered during the summer term of an eligible postsecondary institution.

22.19(2) *Type of coursework offered.* The following provisions apply to coursework delivered through an approved program under this rule:

a. Coursework eligible to be offered through an approved program under this rule will be technical core coursework within and prerequisite coursework for a career and technical education program approved under 281—subrule 21.4(3).

b. The career and technical education program is to be aligned with in-demand occupations identified by the state workforce development board and community colleges pursuant to Iowa Code section 84A.1B(14).

c. Coursework delivered under this rule shall comply with Iowa Code section 257.11(3). The course will not be eligible for supplementary weighting under that section.

22.19(3) *Program proposals.* The department will establish an annual process for the submission and review of proposals for summer college credit programs. A postsecondary institution eligible to offer programming under Division III of this chapter may submit program proposals to the department.

a. Minimum components. The proposal will detail the following components:

(1) A program description, including the course or courses to be made available through the program; total number of credit hours; additional cocurricular experiences and activities including project-, problem-, and work-based learning opportunities; additional support services to be made available through the program; and any other pertinent program information.

(2) The total number of students that the program is capable of serving.

(3) The start date and duration of the program.

b. Enrollment threshold. The postsecondary institution will propose, and the department will approve, a minimum program enrollment threshold. Programs that surpass the minimum enrollment threshold shall be eligible for funding under paragraph 22.19(4)*"b."*

c. Review of proposals. The department will establish a review process to evaluate all program proposals. In reviewing proposals, the department will give priority consideration to program proposals that will ensure equitable geographic disbursement of approved programs. The department will consider additional criteria including number of students served; alignment with in-demand occupations; the inclusion of extracurricular experiences with an emphasis on project-, problem-, and work-based learning opportunities; and the inclusion of provisions that address and remove barriers to participation for nontraditional students, underrepresented minority students, and low-income students.

d. Funding of proposals. A program proposal approved under this rule is funded under paragraph 22.19(4)*"a"* for the amount described under paragraph 22.19(3)*"a."*

22.19(4) *Disbursement of funds.* Subject to the appropriation of funds, the department will disburse funds to a postsecondary institution offering an approved program in the following manner. All funds received under this rule shall be used to support and sustain the approved program.

a. Base funding. The amount of funds reserved for base funding as specified in paragraph 22.19(4)*"c"* will be distributed equally between approved programs.

b. Enrollment. Any funds not distributed under paragraph 22.19(4)*"a"* will be distributed to postsecondary institutions offering an approved program with student enrollment greater than the minimum enrollment threshold.

(1) An approved program shall gather a count of students enrolled in the program on the third day following the start date of the program, and submit this count to the department in a manner prescribed by the department.

(2) Enrollment funding shall be calculated by the department for each program with enrollment greater than the minimum enrollment threshold. For purposes of this rule, the portion of enrollment funding to be received by a postsecondary institution offering an approved program is equal to the total student enrollment in the approved program divided by the total student enrollments statewide.

c. Subsequent years. In each of the subsequent three years following the implementation year, the portion of the allocation distributed based on enrollment will increase by 10 percent each year until the minimum amount awarded based on enrollment is equal to 80 percent of the total allocation.

22.19(5) *Availability.* A postsecondary institution offering an approved program shall enter into a contract with a school district interested in making the program available to eligible students of the school

district. The program will be made available to any eligible student from a participating school district. An institution offering programming to a student under this rule will comply with Division III of this chapter.

a. Student eligibility. To participate in an approved program, a student will comply with the criteria established under rules 281—22.2(261E) and 281—22.7(261E).

b. Teacher eligibility. A teacher assigned to provide instruction under this rule will comply with the criteria established under rule 281—22.3(261E) and be a community college-employed instructor.

c. Institutional eligibility. Institutions offering an approved program under this rule will comply with the criteria established under rule 281—22.4(261E).

[**ARC 8048C**, IAB 6/12/24, effective 7/17/24]

These rules are intended to implement Iowa Code chapter 261E.

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[Filed ARC 8048C (Notice ARC 7586C, IAB 2/7/24), IAB 6/12/24, effective 7/17/24]
[Editorial change: IAC Supplement 10/2/24]

CHAPTER 23
ADULT EDUCATION AND LITERACY PROGRAMS

[Prior to 9/7/88, see Public Instruction Department[670] Ch 34]

Transferred to 877—Chapter 32, IAC Supplement 8/23/23

CHAPTER 24
COMMUNITY COLLEGE ACCREDITATION

Rescinded **ARC 7790C**, IAB 4/17/24, effective 5/22/24

CHAPTER 25
PATHWAYS FOR ACADEMIC CAREER AND EMPLOYMENT PROGRAM; GAP TUITION ASSISTANCE PROGRAM

Chapter rescission date pursuant to Iowa Code section 17A.7: 4/10/29

DIVISION I
GENERAL PROVISIONS

281—25.1(260H,260I) Definitions.

"Department" means the Iowa department of education.

"Director" means the director of the Iowa department of education.

"Dislocated worker" means an individual eligible for services and benefits under the federal Trade Adjustment Act of 2002, P.L. 107-210. To be eligible, an individual must meet both criteria 1 and 2, plus any one of criteria 3 through 8:

1. The individual is registered for the selective service, if applicable; and
2. The individual is a citizen or national of the United States, a lawfully admitted permanent resident alien, a lawfully admitted refugee or parolee or an individual authorized by the Attorney General to work in the United States.
3. The individual:

- Has been laid off or terminated, and
- Is eligible for or has exhausted entitlement to unemployment compensation, and
- Is unlikely to return to the individual's previous industry or occupation; or

4. The individual:

- Is in receipt of a notice of layoff or termination from employment, and
- Will be entitled to unemployment compensation at the time of layoff or termination, and
- Is unlikely to return to the individual's previous industry or occupation; or

5. The individual:

- Has been laid off or terminated, or has received a termination notice, and
- Has been employed for a duration of time to sufficiently demonstrate attachment to the workforce, and
- Is not eligible for unemployment compensation due to insufficient earnings, or has performed services for an employer not covered under the unemployment compensation law, and
- Is unlikely to return to the individual's previous industry or occupation; or

6. The individual has been laid off or terminated, or has received notice of layoff or termination, as a result of a permanent closure of or any substantial layoff at a plant, facility or enterprise; or
7. The individual was formerly self-employed and is unemployed from the individual's business; or
8. The individual:

- Is a displaced homemaker who has been providing unpaid services to family members in the home, and
- Has been dependent on the income of another family member, and is no longer supported by that income, and
- Is unemployed or underemployed, and
- Is experiencing difficulty in obtaining or upgrading employment.

"Federal poverty level" means the most recently revised poverty income guidelines published by the federal Department of Health and Human Services.

"IWD" means the Iowa workforce development department.

"Low skilled" means an adult individual who is basic skills deficient, has lower level digital literacy skills, has an education below a high school diploma, or has a low level of educational attainment that inhibits the individual's ability to compete for skilled occupations that provide opportunity for a self-sufficient wage.

"State board" means the Iowa state board of education.

"Underemployed" means an adult individual who is working less than 30 hours per week, or who is employed any number of hours per week in a job that is substantially below the individual's skill level and that does not lead to self-sufficiency.

"Unemployed" means an adult individual who is involuntarily unemployed and is actively engaged in seeking employment.

[**ARC 7653C**, IAB 3/6/24, effective 4/10/24]

DIVISION II
PATHWAYS FOR ACADEMIC CAREER AND EMPLOYMENT (PACE) PROGRAM

281—25.2(260) PACE program. The pathways for academic career and employment program (hereinafter referred to as PACE) is established to provide funding to community colleges for the development of projects that will lead to gainful, quality, in-state employment for members of target populations by providing them with both effective academic and employment training to ensure gainful employment and customized support services.

25.2(1) *Target populations.* Individuals included in target populations are those individuals who meet one or more of the following:

a. Are deemed by definition to be low skilled.

b. Earn incomes at or below 250 percent of the federal poverty level.

c. Are unemployed.

d. Are underemployed.

e. Are dislocated workers.

25.2(2) *Eligibility criteria for projects.* Projects eligible for funding for PACE are to be projects that further the ability of members of target populations to secure gainful, quality employment; that further partnerships linking community colleges to industry and nonprofit organizations; and that further the following program outcomes:

a. Enabling members of the target populations to:

(1) Acquire and demonstrate competency in basic skills.

(2) Acquire and demonstrate competency in a specified technical field.

(3) Complete a specified level of postsecondary education.

(4) Earn a national career readiness certificate.

(5) Obtain employer-validated credentials.

(6) Secure gainful employment in high-quality, local jobs.

b. Meeting economic and employment goals, including:

(1) Economic and workforce development requirements in each region served by the community colleges as defined by local advisory boards established pursuant to Iowa Code section 84A.4.

(2) Needs of industry partners in areas including but not limited to the fields of information technology, health care, advanced manufacturing, transportation and logistics, and any other industry designated as in-demand by a local advisory board established pursuant to Iowa Code section 84A.4.

[**ARC 7653C**, IAB 3/6/24, effective 4/10/24]

281—25.3(260H) Program component requirements. Program components for a PACE project implemented at a community college are to meet the terms of Iowa Code section 260H.5.

[**ARC 7653C**, IAB 3/6/24, effective 4/10/24]

281—25.4(260H) Pipeline program. Each community college receiving funding for PACE is to meet the terms of Iowa Code section 260H.6.

[**ARC 7653C**, IAB 3/6/24, effective 4/10/24]

281—25.5(260H) Career pathways and bridge curriculum development program. Each community college receiving funding for PACE is to meet the terms of Iowa Code section 260H.7.

[**ARC 7653C**, IAB 3/6/24, effective 4/10/24]

281—25.6(260H) Pathway navigators. A community college may use moneys for the PACE program to employ pathway navigators to assist students as specified in Iowa Code section 260H.7A.
[**ARC 7653C**, IAB 3/6/24, effective 4/10/24]

DIVISION III
GAP TUITION ASSISTANCE PROGRAM

281—25.7(260I) Gap tuition assistance program. A gap tuition assistance program is established to provide funding to community colleges for need-based tuition assistance to enable applicants to complete continuing education certificate training programs for in-demand occupations.

25.7(1) *Applicants for tuition assistance.* Eligibility for tuition assistance will be based on financial need. Eligibility criteria are set forth in Iowa Code sections 260I.3 and 260I.4.

25.7(2) *Eligible costs.* Costs of an eligible certificate program are set forth in Iowa Code section 260I.5.

25.7(3) *Eligible certificate programs.* For the purposes of this division, "eligible certificate program" means a program satisfying the criteria in Iowa Code section 260I.6.
[**ARC 7653C**, IAB 3/6/24, effective 4/10/24]

281—25.8(260I) Initial assessment. An eligible applicant for tuition assistance under this division is subject to an initial assessment administered by the community college pursuant to Iowa Code section 260I.7. In assessing an applicant under this division, a community college will use the national career readiness certificate; an assessment eligible under the Adult Education and Family Literacy Act, 20 U.S.C. Ch. 73, and approved by the department for use in an adult education and literacy program; or an established process utilizing valid measures for determining preparedness for the eligible certificate program, which may include processes for measuring academic preparedness used by the community college for placement of students into credit coursework.
[**ARC 7653C**, IAB 3/6/24, effective 4/10/24]

281—25.9(260I) Program interview. An eligible applicant for tuition assistance under this division is subject to an initial interview with the gap tuition assistance coordinator for the community college receiving the application. This interview is subject to the provision of Iowa Code section 260I.8.
[**ARC 7653C**, IAB 3/6/24, effective 4/10/24]

281—25.10(260I) Participation requirements. Participating individuals are subject to the provisions of Iowa Code section 260I.9.
[**ARC 7653C**, IAB 3/6/24, effective 4/10/24]

281—25.11(260I) Oversight. Statewide oversight, evaluation, and reporting efforts for the gap tuition assistance program are coordinated by the department pursuant to the terms of Iowa Code section 260I.10.

25.11(1) A steering committee consisting of the Iowa department of education, the Iowa workforce development department, and community college continuing education deans and directors is established to determine whether the performance measures of the gap tuition assistance program are being met and to correct any deficiencies. The steering committee will meet at least quarterly to evaluate and monitor the performance of the gap tuition assistance program.

25.11(2) A common intake tracking system is established pursuant to Iowa Code section 260I.10(2).

25.11(3) The steering committee will develop the required program criteria for PACE and gap tuition assistance-certified programs to be eligible for tuition assistance and program funding. These criteria will be developed based on best practices in the development and delivery of career pathway programs that provide a clear sequence of education coursework and credentials aligned with regional workforce skill needs; clearly articulate from one level of instruction to the next; combine occupational skills and remedial adult education; lead to the attainment of a credential or degree; assist with job placement; and provide wraparound social and socioeconomic support services with the goal of increasing the individual's skills attainment and employment potential.

25.11(4) To ensure efficient delivery of services, the department, in consultation with the community colleges, may redistribute funds available to the community colleges for purposes of this division.
[**ARC 7653C**, IAB 3/6/24, effective 4/10/24]

These rules are intended to implement Iowa Code chapters 260H and 260I.

[Filed ARC 0102C (Notice ARC 0020C, IAB 2/22/12), IAB 4/18/12, effective 5/23/12]
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TITLE IV
DRIVER AND SAFETY EDUCATION

CHAPTER 26
DRIVER EDUCATION

[Prior to 9/7/88, see Public Instruction Department[670] Ch 6]
Rescinded IAB 8/21/02, effective 9/25/02

CHAPTER 27
WORKFORCE TRAINING AND ECONOMIC DEVELOPMENT FUNDS

Chapter rescission date pursuant to Iowa Code section 17A.7: 4/10/29

281—27.1(260C) Definitions.

"Community college" or *"college"* means a community college established under Iowa Code chapter 260C.

"Department" means the Iowa department of education.

"Fund" or *"funds"* means the workforce training and economic development funds created by Iowa Code section 260C.18A and allocated to each community college.

"Project" means a training or educational activity funded under this chapter.

"State board" or *"board"* means the Iowa state board of education.

"Targeted areas" means the areas of advanced manufacturing; information technology and insurance; alternative and renewable energy, including the alternative and renewable energy sectors listed in Iowa Code section 476.42(1)*"a"*; and life sciences, which include the areas of biotechnology, health care technology, and nursing care technology.

[**ARC 7654C**, IAB 3/6/24, effective 4/10/24]

281—27.2(260C) Funds allocation. A fund is created and the department will allocate moneys as specified in Iowa Code section 260C.18A(2).

[**ARC 7654C**, IAB 3/6/24, effective 4/10/24]

281—27.3(260C) Community college workforce and economic development fund plans and progress reports. Each community college, to receive its allocation for the forthcoming fiscal year, is to prepare and submit to the department for state board consideration the following items for the fiscal year.

27.3(1) *Workforce training and economic development fund plan.* Each college will adopt a workforce training and economic development fund plan for the upcoming year that outlines the community college's proposed use of moneys appropriated to its fund. Plans are to be based on fiscal years and submitted to the department, in a manner prescribed by the department, by September 30 for the current fiscal year allocation. Plans are to describe how the college proposes to allocate funds to support individual allowable uses pursuant to rule 281—27.4(260C) and the planned amount to be used to support targeted areas.

27.3(2) *Progress reports.* Each college that receives an allocation of moneys pursuant to rule 281—27.2(260C) will prepare an annual progress report detailing the plan's implementation. The report is to be submitted to the department by September 30 of each year in a manner and form as prescribed by the department. The report will provide information regarding projects supported by the college's fund, including the number of participants enrolled in each program, the number of participants who complete each program, the dollars spent on each allowable use pursuant to rule 281—27.4(260C), the dollars spent in targeted areas, and other data necessary to report on state program performance metrics.

[**ARC 7654C**, IAB 3/6/24, effective 4/10/24]

281—27.4(260C) Use of funds. Moneys deposited into each community college fund are to be expended as specified in Iowa Code section 260C.18A. Any individual project using over $1 million of moneys from a workforce training and economic development fund requires prior approval from the state board.

[**ARC 7654C**, IAB 3/6/24, effective 4/10/24]

281—27.5(260C) Annual plan and progress report approval.

27.5(1) The state board will review and consider approval of reports and plans submitted pursuant to rule 281—27.3(260C).

27.5(2) The state board may reject a plan or progress report for any of the following reasons, including:

a. Incomplete information or data;

b. Failure to comply with rule 281—27.4(260C);

c. Project not operated in compliance with state or federal law.

27.5(3) If the state board does not accept a college's annual progress report, the college is subject to the following actions as prescribed by the board based upon the severity of the noncompliance or default, including:

a. The withholding of a portion of new fiscal year moneys based upon amounts awarded deemed to be ineligible;

b. Tighter oversight and control of the college's fund by the department;

c. Loss of funds for one year;

d. Other action deemed appropriate by the board.

[**ARC 7654C**, IAB 3/6/24, effective 4/10/24]

These rules are intended to implement Iowa Code section 260C.18A.

[Filed ARC 1662C (Notice ARC 1529C, IAB 7/9/14), IAB 10/15/14, effective 11/19/14]

[Filed ARC 7654C (Notice ARC 7159C, IAB 12/13/23), IAB 3/6/24, effective 4/10/24]

CHAPTERS 28 to 30
Reserved

TITLE V
NONTRADITIONAL STUDENTS

CHAPTER 31
PRIVATE INSTRUCTION AND DUAL ENROLLMENT

[Prior to 9/7/88, see Public Instruction Department[670] Ch 63]

Chapter rescission date pursuant to Iowa Code section 17A.7: 7/17/29

281—31.1(299,299A) General. Any parent, guardian, or legal custodian of a child of compulsory attendance age may place the child under competent private instruction or independent private instruction in adherence to all provisions within Iowa Code chapter 299A. This includes any child identified as requiring special education under Iowa Code chapter 256B. If a child's performance indicates a need for special education, the child will be referred and evaluated as indicated in Iowa Code section 299A.9.
[**ARC 8049C**, IAB 6/12/24, effective 7/17/24]

281—31.2(299,299A) Definitions. For purposes of this chapter:

31.2(1) The following terms apply as defined in Iowa Code section 299A.1:

"Competent private instruction."

"Independent private instruction."

"Private instruction."

31.2(2) The following term applies as defined in Iowa Code section 299A.6:

"Adequate progress."

[**ARC 8049C**, IAB 6/12/24, effective 7/17/24]

281—31.3(299,299A) Competent private instruction.

31.3(1) *By licensed practitioner.* Competent private instruction by a licensed practitioner complies with this chapter.

a. Instruction under this subrule may include a home school assistance program. A home school assistance program is provided by instructional assistance and supervision to a parent, guardian, or legal custodian providing instruction to a child through an accredited nonpublic school or public school district by an appropriately certified or licensed educator.

b. If instruction is provided through a public school district:

(1) The child will be enrolled and included in the basic enrollment of the school district.

(2) Iowa Code sections 299A.3 through 299A.7 do not apply in this circumstance, with the exception of the reporting provision in Iowa Code section 299A.3(1).

c. If a person is a privately retained licensed practitioner (who possesses a valid Iowa teaching certificate or practitioner license, including a substitute teacher's license or a substitute authorization that is appropriate to the grade level of the student), that practitioner may provide competent private instruction.

(1) The duties of a licensed teacher who instructs or provides instructional supervision of a student include the following:

1. Contact with the student and the student's parent, guardian, or legal or actual custodian at least twice per 45 days of instruction, during which time the teacher practitioner fulfills the duties described below. One of every two contacts will be face-to-face with the student.

2. Consulting with and advising the student's parent, guardian, or legal or actual custodian as requested by the student's parent, guardian, or legal or actual custodian or as deemed necessary in the professional judgment of the practitioner.

3. Providing formal and informal assessments of the student's progress to the student and the student's parent, guardian, or legal or actual custodian.

4. Annually maintaining a diary, record, or log of visitations and assistance provided.

5. Referring to the child's district of residence for evaluation a child who the practitioner has reason to believe may need special education.

(2) A licensed Iowa practitioner who is employed under this rule will not serve in that capacity on behalf of more than 25 families, or more than 50 children of compulsory attendance age, in an academic year unless the service is provided pursuant to the teacher's employment with a nonaccredited nonpublic entity.

A licensed practitioner may seek exemption from the above limitation by submitting a written request to the director of the department of education. Exemptions will be granted when the director is satisfied that the limitation will impose a substantial hardship on the person or the school providing instruction or instructional supervision and that the best interests of all children being served by the practitioner will continue to be met.

31.3(2) *By parent, guardian, or legal custodian.* A parent, guardian, or legal custodian without a current Iowa teaching license providing competent private instruction for any child of compulsory age may:

a. Provide a report to the school district of residence of the child within 30 days of commencing instruction under this rule, which report demonstrates compliance with Iowa Code chapter 299A and this chapter.

b. Annually evaluate the child to determine whether the child is making adequate progress.

c. Report the child's annual evaluation to the school district of residence of the child and to the department of education by August 1.

[**ARC 8049C**, IAB 6/12/24, effective 7/17/24]

281—31.4(299,299A) Annual achievement evaluations.

31.4(1) *General.* Each child receiving competent private instruction will be evaluated annually by May 31 through the use of:

a. A nationally recognized standardized achievement evaluation; or

b. Another assessment tool selected by the child's parent, guardian, or legal custodian from an approved list provided by the department of education, which will include:

(1) The costs and administration time of listed evaluations, and

(2) A process to approve new or alternate assessments that meet the provisions of Iowa Code chapter 299A.

31.4(2) *Duties of educational agencies.* The director of the department of education, or the director's designee, which may include a school district or an area education agency (AEA), will:

a. Conduct annual evaluations at a time and place determined by the person responsible for conducting the evaluation, which includes but is not limited to purchasing of evaluation materials, giving the evaluations, scoring and interpreting the evaluations, and reporting the evaluation results; and

b. Provide for the parent, guardian, or legal custodian of the child to be present when the child is evaluated.

31.4(3) *Additional testing.* If requested, the school district or AEA will conduct annual evaluations at no cost to the parent, guardian, or legal custodian. Further:

a. The parent, guardian, or legal custodian under competent private instruction is not required to reimburse any of the evaluation costs; and

b. The annual achievement evaluation does not meet dual enrollment purposes under Iowa Code section 299A.8.

31.4(4) *Additional evidence of progress.* A parent, guardian, or legal custodian of a child may submit, as evidence of adequate academic progress, completed assessment evaluations, other than the annual achievement evaluation, if assessment evaluations are administered as part of the competent private instruction.

a. A parent, guardian, or legal or actual custodian of a child subject to the annual assessment requirement may arrange to have an appropriately licensed Iowa practitioner review a portfolio of evidence of the child's progress annually by May 31.

(1) A single evaluator will be designated by the parent, guardian, or legal or actual custodian who has selected the portfolio evaluation option for annual assessment. The evaluator so identified will be approved by the superintendent of the local school district or the superintendent's designee and will hold a valid Iowa practitioner license or teacher certificate appropriate to the ages and grade levels of the children whose portfolios are being assessed.

(2) The child's portfolio will contain evidence of academic progress in the minimum curriculum areas of reading, language arts, and mathematics if the child is in grades 1 through 5. For children in grades 6 through 12, the portfolio will contain evidence in the minimum curriculum areas of reading, language arts, mathematics, science, and social studies.

b. For a child subject to annual assessment under this rule who is enrolled as a student of a correspondence school that is a member of an accrediting association recognized by the federal Department of Education and accredited for elementary and secondary education, the district of residence and the department will accept the annual report of progress (report card) sent by the correspondence school to the child's parent, guardian, or legal or actual custodian if the annual report of progress includes a listing of subjects taken and grades received. A passing grade in all content areas for which annual assessment is required is deemed evidence of adequate progress for the purpose of annual assessment.

31.4(5) *Reporting of evaluation results.* Evaluation results will be handled pursuant to Iowa Code section 22.7(1) and reported by the evaluation administrator to the child's parent, guardian, or legal custodian; the school district of residence of the child; and the department of education.

31.4(6) *Failure to make adequate progress—notice to parents.* If annual evaluation results indicate the child has not made adequate progress:

a. The director of the department of education, or the director's designee, will notify the parent, guardian, or custodian of the child that the child is required to attend an accredited public or nonpublic school.

b. The child will attend an accredited public or nonpublic school at the start of the next school year until evaluation results indicate the child has made adequate progress, unless, before the beginning of the next school year, the director or director's designee grants approval for competent private instruction to continue under a plan for remediation.

31.4(7) *Rules of construction.*

a. Nothing in this section requires or prohibits testing in any way other than what is set forth in Iowa Code section 256.7(21)*"b"*(2).

b. The parent, guardian, or custodian of students who are receiving independent private instruction are responsible for the cost of annual assessment if requested, through the local school district or AEA.

c. The parent, guardian, or legal or actual custodian of a child subject to this rule and who has a physical or mental disability so significant that the results of a standardized test would not yield relevant results for assessment purposes may request the department's approval of an alternative evaluation.

[**ARC 8049C**, IAB 6/12/24, effective 7/17/24]

281—31.5(299,299A) Dual enrollment.

31.5(1) If a parent, guardian, or legal custodian submits a request, the child will be registered in a public school for dual enrollment purposes and included in the public school's basic enrollment under Iowa Code section 257.6.

31.5(2) A child who is dual enrolled will:

a. Be permitted to participate in any academic activities in the district;

b. Be permitted to participate in any extracurricular activities on the same basis as any public school child; and

c. Be counted under Iowa Code section 257.6(1)*"a"*(6); or

d. In the case of a child in grades 9 through 12, be counted in the same manner as a shared-time pupil under Iowa Code section 257.6(1)*"a"*(3).

31.5(3) Enrollment of a child solely for purposes of accessing the annual achievement evaluation does not constitute dual enrollment.

31.5(4) A parent may not use dual enrollment to enroll a child in all courses but one.

[**ARC 8049C**, IAB 6/12/24, effective 7/17/24; **ARC 8983C**, IAB 3/5/25, effective 4/9/25]

281—31.6(299,299A) Home school assistance program. The board of directors of a school district will expend funds received pursuant to Iowa Code section 257.6(1)*"a"*(5), and amounts designated from the school district's flexibility account under Iowa Code section 298A.2(2), for providing a home school assistance program. Funds will be expended for intended purposes identified in Iowa Code sections

299A.12(2) through 299A.12(4). A district will not employ as a home school assistance program instructor a person who currently holds only a substitute authorization. A home school assistance program teacher will have contact with the student and the student's parent, guardian, or legal or actual custodian at least four times per 45 days of instruction. One of every two contacts will be face-to-face with the student.
[**ARC 8049C**, IAB 6/12/24, effective 7/17/24]

281—31.7(299,299A) Miscellaneous provisions.

31.7(1) *Special education.* Special education services to students in competent private instruction, including dual enrollment for special education services, are governed by Iowa Code section 299A.9.

31.7(2) *Open enrollment.* Open enrollment for a student under this chapter is governed by Iowa Code section 282.18. A receiving district may only bill a resident district if the receiving district complies with the provisions of this chapter.

31.7(3) *Instructional materials.*

a. A school district will not make monetary payments, including cash and cash equivalents, or give publicly funded resources, directly or indirectly, to the parent, guardian, or legal or actual custodian or to a child receiving competent private instruction. A school district will not purchase texts or supplementary materials for or on behalf of a child receiving competent private instruction if such texts or supplementary materials are not appropriate for use by regularly enrolled students of the school district.

b. A district may provide to children receiving competent private instruction available texts or supplementary materials on the same basis as they are provided to enrolled students and will provide available texts or supplemental instructional materials on the same basis as they are provided to enrolled students when a child is under dual enrollment or in a home school assistance program. If a fee, such as a textbook or towel rental fee, is charged to regularly enrolled students for participation in a class or extracurricular activity, that fee may also be charged to dual-enrolled students on the same basis as it is charged to enrolled students, but only for the specific class or extracurricular activity.

c. The parent, guardian, or legal or actual custodian who provides competent private instruction to a child of compulsory attendance age may access the services and materials available from the AEA by requesting assistance through the school district of residence. The AEA will make services and materials available to the child on the same basis as they are available to regularly enrolled students of the district if the child is dual enrolled or enrolled in a home school assistance program. The district of residence will act as liaison between the parent, guardian, or legal or actual custodian of a child who is receiving competent private instruction and the AEA.

31.7(4) *Driver education.* The public school district will offer or make available to all resident students, including those receiving private instruction on an equal basis with students enrolled in the district, an approved course in driver education pursuant to Iowa Code section 321.178(1)*"c."*

31.7(5) *Private instruction reporting exemption.* The options provided in subrule 31.3(2) are not available to any parent, guardian, or legal or actual custodian who requests services from a school district or AEA under this chapter, including the provision of instructional materials, assistance from a home school assistance program, dual enrollment, open enrollment, or special education services. Parents who elect the reporting option under this subrule and who request testing assistance or an approved course in driver education under subrule 31.7(4) need not complete any particular form, but must demonstrate that the child is receiving competent private instruction pursuant to this chapter.

31.7(6) *Independent private instruction—services available.* For students under independent private instruction, only the following services are available: an approved course in driver education; annual achievement testing under paragraph 31.4(7)*"b"*; and concurrent enrollment programs, also known as district-to-community college sharing, subject to the terms of Iowa Code section 261E.8.

31.7(7) *Student records confidential.* Personal information in records pursuant to this chapter will be kept confidential in compliance with district student directory policy in accordance with Iowa Code section 22.7(1).
[**ARC 8049C**, IAB 6/12/24, effective 7/17/24]

These rules are intended to implement Iowa Code chapters 299 and 299A.

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CHAPTER 32
HIGH SCHOOL EQUIVALENCY DIPLOMA

[Prior to 9/7/88, see Public Instruction Department[670] Ch 8]

Chapter rescission date pursuant to Iowa Code section 17A.7: 4/10/29

281—32.1(259A) Definitions. As used in this chapter:

"Adult education and literacy program" means the same as defined in 877—Chapter 32.

"Approved program" means any defined option established under this chapter for the completion of a high school equivalency diploma that has been approved by the department.

"Approved test" means the entire battery of subtests given under a high school equivalency test adopted by the department and administered at department-approved testing sites.

"Contact hour" means the same as described in 281—Chapter 21.

"Continuous enrollment" means a participant has not exited from the approved program as defined in the federal Workforce Innovation and Opportunity Act (34 CFR §361.150(c)), effective December 13, 2023.

"Demonstrated competence" means the ability to apply the knowledge and skills required to perform critical functions specific to a program of study. Competencies that measure the attainment of the knowledge, skills, and abilities equivalent to a high school program of study are to be aligned with content standards for adult education as referenced in 877—Chapter 32 and twenty-first century learning skills.

"Department" means the Iowa department of education.

"Eligible institution" means an entity as described in 877—Chapter 32.

"High school credit" means credit awarded for the successful completion of a secondary course or demonstrated competence equivalent to one-half unit as defined in 281—Chapter 12.

"High school equivalency diploma" means the credential granted by the department to adults who did not graduate from high school and are unable to receive a high school diploma through traditional means but who are able to demonstrate attainment of the knowledge, skills, and abilities that are equivalent to those that would be attained in a high school program of study.

"Resident" means an individual who satisfies the provisions of 281—subrule 21.2(11).

"Twenty-first century learning skills" means the same as defined in 281—Chapter 12.

"Work-site learning" means a planned and supervised work experience, equivalent to the training services defined in the federal Workforce Innovation and Opportunity Act (29 U.S.C. §3174(c)(3)(D)), effective December 13, 2023, that follows workplace laws and regulations, including the minimum wage prescribed by Iowa law or the federal Fair Labor Standards Act, if applicable.

[**ARC 7655C**, IAB 3/6/24, effective 4/10/24]

281—32.2(259A) Eligibility to participate.

32.2(1) No one under 16 years and nine months of age is allowed to participate in an approved program, with the exception of a person who is at least 16 years of age and satisfies one or more of the following conditions:

a. Is a resident of an Iowa juvenile institution;

b. Is an active participant in Job Corps; or

c. Is under the supervision of a probation office.

32.2(2) Anyone 16 years and nine months of age or older who is not enrolled in a secondary school nor is a high school graduate is permitted to apply for enrollment in an approved program. The requirements for admission into an approved program are:

a. Proof of age and, for an applicant under 18 years of age, consent of the applicant's parent or guardian.

b. For an applicant under 19 years of age, verification of nonenrolled status from the last high school attended.

c. Completion of a comprehensive intake by an eligible institution. For purposes of this chapter, the intake includes all of the following:

(1) Assessment of the applicant's reading level and career interests and aptitudes.

(2) Discussion of program options available to the applicant regarding completion of a high school equivalency diploma, to include the requirements, expectations, benefits, and limitations of each option.

(3) Development of a plan for the completion of one of the options discussed and subsequent activities necessary to work toward an identified goal, career pathway, occupation, or further education.

32.2(3) An eligible participant who successfully completes an approved program will not be awarded a high school equivalency diploma until the participant reaches 18 years of age and the participant's ninth grade class has graduated from high school. This subrule does not apply to eligible participants described in paragraphs 32.2(1)*"a"* through *"c,"* who may receive their diploma at any time after completion.

[**ARC 7655C**, IAB 3/6/24, effective 4/10/24]

281—32.3(259A) By whom administered. An approved program is to be administered by an eligible institution, which may provide one or more approved programs. The department will maintain a process by which an eligible institution may apply to offer an approved program.

[**ARC 7655C**, IAB 3/6/24, effective 4/10/24]

281—32.4(259A) Diploma, transcript, verification fees. Upon payment to the department or its designee of a fee for the actual cost of production and distribution of a high school equivalency diploma, transcript, or verification letter not to exceed $20 per document, the department will issue a high school equivalency diploma, transcript, or verification letter to an applicant who has achieved the minimum standards established in this chapter. Upon payment to the department or its designee of a fee for the actual cost of verification and issuance of a duplicate diploma, transcript, and verification letter not to exceed $20, the department or its designee will issue a duplicate diploma, transcript, or provide verification to the applicant or person authorized by the applicant to request these documents. Approved providers must track and submit to the department evidence of the applicant's completion of the program requirements for the issuance of a high school equivalency diploma.

[**ARC 7655C**, IAB 3/6/24, effective 4/10/24]

281—32.5(259A) Application, course, and testing fees. The applicant or the applicant's supporting agency is to pay an application, course, or testing fee to cover only necessary and reasonable testing or program costs. Fees paid directly to an approved program are considered program income and are to adhere to the federal Office for Management and Budget Uniform Guidance cost principles (as codified in 2 CFR §200.80), effective December 13, 2023.

[**ARC 7655C**, IAB 3/6/24, effective 4/10/24]

281—32.6(259A) High school equivalency diploma program based on a department-approved test. The department will award a high school equivalency diploma to an applicant who achieves the appropriate minimum standard scores on an approved test.

32.6(1) *Validity of test scores.* Scores on an approved test remain valid for a period of five years from the date of the first subtest taken. If an applicant has not earned a high school equivalency diploma within this five-year period, the applicant must retake any expired subtest. The only exception is for test series that expire prior to the five-year period, in which case all previously taken subtests are void.

32.6(2) *Retest.* Any applicant not achieving the minimum standard test score on any subtest in effect at the time of testing is permitted to apply for retest. Applicants may retest twice per calendar year, provided one of the following conditions is met:

a. A period of three months from the date of initial testing has elapsed; or

b. The applicant completes instruction in an adult education and literacy program in each subject area to be retested. This instruction is to be certified by an official of the adult education and literacy program provider to the test administrator authorized to release the retest.

[**ARC 7655C**, IAB 3/6/24, effective 4/10/24]

281—32.7(259A) High school equivalency diploma program based on attainment of high school credits. The department will award a high school equivalency diploma to an applicant who demonstrates completion of an approved program consisting of at least 36 high school credits. The approved program will be inclusive of the graduation requirements established under 281—Chapter 12 and consist of at least

eight high school credits in English or communications; six credits in mathematics; six credits in science; six credits in social studies, including government; and ten elective credits that meet the requirements of subrule 32.7(4).

32.7(1) *Award of prior credit.* The applicant is to provide certified, translated transcripts from any Iowa school district, accredited public or nonpublic high school, or regionally accredited college or university to document completion of credits earned that are equivalent to those required in an approved program established under this rule. Additional documentation may be requested to validate credits earned.

32.7(2) *Minimum participation requirement.* An eligible applicant is to demonstrate competence through continuous enrollment in an approved program for a minimum of two high school credits.

32.7(3) *Minimum graduation requirements.* If the applicant is not continuously enrolled in an approved program, the applicant becomes subject to the minimum graduation requirements applicable to the date of reenrollment.

32.7(4) *Electives.*

a. Coursework for electives will align with twenty-first century learning skills and be classified in one of the following five areas:

(1) Civic literacy;
(2) Health literacy;
(3) Technology literacy;
(4) Financial literacy;
(5) Employability skills.

b. Work-site learning may be counted toward an elective, under the following conditions:

(1) Evidence of prior work-site learning will be evaluated using a state-developed assessment tool and may be awarded a maximum of two high school credits. Credit earned for prior work-site learning will not be counted toward the minimum participation requirement, as described in subrule 32.7(2).

(2) Current work-site learning will be evaluated using a state-developed assessment tool and may be awarded a maximum of two high school credits. Credit earned for current work-site learning may be counted toward the minimum participation requirement, as described in subrule 32.7(2).

32.7(5) *Postsecondary credit.* Credit awarded by a regionally accredited postsecondary institution for the successful completion of a course that applies toward the requirements of a postsecondary credential, including a certificate or diploma, or associate, bachelor, or graduate-level degree program, will be accepted to fulfill the requirements for the satisfactory completion of a program as follows:

a. One postsecondary semester credit or its equivalent is equal to one-third high school credit. The resulting high school credit may be used to satisfy either a core or elective credit requirement of an approved program.

b. Twenty contact hours of noncredit postsecondary coursework is equal to one-third high school credit provided the coursework is aligned to regional career pathways and occupational needs. This credit can be used to satisfy an elective credit requirement of an approved program.

[**ARC 7655C**, IAB 3/6/24, effective 4/10/24]

281—32.8(259A) High school equivalency diploma program based on postsecondary degree.

32.8(1) *Postsecondary degree from a United States postsecondary institution.* The department will award a high school equivalency diploma to a resident applicant who presents an associate degree or higher that includes general education coursework and is awarded by a regionally accredited postsecondary institution. The applicant is to provide official transcripts to an adult education and literacy program to document completion of program requirements.

32.8(2) *Postsecondary degree from a foreign postsecondary institution.* The department will award a high school equivalency diploma to a resident applicant who presents a postsecondary degree equivalent to an associate degree or higher, provided that the following conditions are met:

a. The applicant presents to an adult education and literacy program an official transcript from an institution of higher education attesting to the completion of the program of study for the postsecondary degree. If the transcript is not in English, the applicant will also provide a certified translation.

b. The applicant is a United States citizen or meets both of the following conditions:

(1) Demonstrates proficiency in speaking, listening, reading, and writing as defined by the department's approved English language proficiency standards; and

(2) Has successfully completed a course in government or civics education as a component of an approved program.

[**ARC 7655C**, IAB 3/6/24, effective 4/10/24]

These rules are intended to implement Iowa Code chapter 259A.

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CHAPTER 33
EDUCATING HOMELESS CHILDREN AND YOUTH

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/31/29

281—33.1(256) Definitions.

"District of origin" means the public school district in Iowa in which a child was last enrolled or which a child last attended when permanently housed.

"Guardian" means a person of majority age with whom a homeless child or youth of school age is living or a person of majority age who has accepted responsibility for the homeless child or youth, whether or not the person has legal guardianship over the child or youth.

"Homeless child or youth" means a child or youth from the age of 3 years through 21 years who meets the definition in Iowa Code section 282.1(2)*"a"*(2).

"Preschool child" means a child who is three, four, or five years of age before September 15.

"School of origin" means the school that a child or youth attended when permanently housed or the school in which the child or youth was last enrolled, including a preschool. When the child or youth completes the final grade level served by the school of origin, the term "school of origin" includes the designated receiving school at the next grade level for all feeder schools.

"Unaccompanied homeless youth" means a homeless youth not in the physical custody of a parent or guardian.

[**ARC 7434C**, IAB 12/27/23, effective 1/31/24]

281—33.2(256) Responsibilities of school districts. A public school district (district) shall do all of the following:

33.2(1) The district will locate and identify homeless children or youth within the district, whether or not they are enrolled in school.

33.2(2) The district will post, at community shelters and other locations in the district where services or assistance is provided to the homeless, information regarding the educational rights of homeless children and youth and encouraging homeless children and youth to enroll in the public school.

33.2(3) The district will examine and revise, if necessary, existing school policies or rules that create barriers to the enrollment of homeless children or youth, consistent with these rules. Examination and revision include identifying and removing barriers that prevent such children and youth from receiving appropriate credit for full or partial coursework satisfactorily completed while attending a prior school, in accordance with state, local, and school policies. Examination and revision also include ensuring that homeless children and youth who meet the relevant eligibility criteria do not face barriers to accessing academic and extracurricular activities, including magnet school, summer school, career and technical education, advanced placement, online learning, and charter school programs, if such programs are available at the state and local levels. School districts are encouraged to cooperate with agencies and organizations for the homeless to explore comprehensive, equivalent alternative educational programs and support services for homeless children and youth when necessary to implement the intent of these rules.

33.2(4) The district will enact a policy prohibiting the segregation of a homeless child or youth from other students enrolled in the public school district.

33.2(5) The district immediately will enroll a homeless child or youth, pending resolution of any dispute regarding in which school the child or youth should be enrolled.

33.2(6) The district will determine school placement based on the best interests of a homeless child or youth. The district, to the extent feasible, will keep a homeless child or youth in the school of origin, except when doing so is contrary to the wishes of the child's or youth's parent or guardian. If the child or youth becomes permanently housed during an academic year, enrollment continues in the school of origin for the remainder of that academic year unless the parent or guardian agrees otherwise.

33.2(7) The district will designate as the district's local educational agency liaison for homeless children and youth an appropriate staff person who is able to and has been trained to carry out the duties specified in 42 U.S.C. §11432(g)(6) and coordinates and collaborates with state coordinators and

community and school personnel responsible for the provision of education and related services to homeless children and youth.
[**ARC 7434C**, IAB 12/27/23, effective 1/31/24]

281—33.3(256) School records; student transfers.

33.3(1) The school records of each homeless child or youth will be maintained so that the records are available in a timely fashion when a child or youth enters a new school district and in a manner consistent with federal statutes and regulations related to student records.

33.3(2) Upon notification that a homeless student intends to transfer out of the district, a school district will immediately provide copies of the student's permanent and cumulative records, or other evidence of placement or special needs, to the homeless child or youth or the parent or guardian of a homeless child or youth who may take the copies with them.

33.3(3) Upon the enrollment of a homeless child or youth, a school district will accept copies of records, or other evidence of placement provided by the homeless child, youth, or the parent or guardian of the homeless child or youth, for purposes of immediate placement and delivery of education and support services. Thereafter, the receiving school will request copies of the official records from the sending school. The receiving school shall not dismiss or deny further education to the homeless child or youth solely on the basis that the prior school records are unavailable.
[**ARC 7434C**, IAB 12/27/23, effective 1/31/24]

281—33.4(256) Immunization.

33.4(1) Consistent with the provisions of Iowa Code section 139A.8 and rules of the department of health and human services, a public school shall not refuse to enroll or exclude a homeless child or youth for lack of immunization records if any of the following situations exist. The parent or guardian of a homeless child or youth or a homeless child or youth:

a. Offers a statement signed by a doctor licensed by the state board of medical examiners specifying that in the doctor's opinion the immunizations required would be injurious to the health and well-being of the child or youth or to any member of the child's or youth's family or household.

b. Provides an affidavit stating that the immunization conflicts with the tenets and practices of a recognized religious denomination of which the homeless child or youth is a member or adherent, unless the state board of health has determined and the director of health has declared an emergency or epidemic exists.

c. Offers a statement that the child or youth has begun the required immunizations and is continuing to receive the necessary immunizations as rapidly as is medically feasible.

d. States that the child or youth is a transfer student from any other school, and that school confirms the presence of the immunization record.

33.4(2) The school district will make every effort to locate or verify the official immunization records of a homeless child or youth based upon information supplied by the child, youth, parent, or guardian. In circumstances where it is admitted that the homeless child or youth has not received some or all of the immunizations required by state law for enrollment and none of the exemptions listed above is applicable, the district will refer the child, youth, and parent or guardian to the local board of health for the purpose of immunization, and the school is to provisionally enroll the child or youth in accordance with paragraph 33.4(1)*"c"* or *"d"* above.
[**ARC 7434C**, IAB 12/27/23, effective 1/31/24]

281—33.5(256) Waiver of fees and charges encouraged.

33.5(1) If a child or youth is determined to be homeless as defined by these rules, and is not otherwise eligible for a waiver of fees under 281—Chapter 18, a school district is encouraged, subject to state law, to waive any fees or charges that would present a barrier to the enrollment or transfer of the child or youth, such as fees or charges for textbooks, supplies, or activities.

33.5(2) A homeless child or youth, or the parent or guardian of a homeless child or youth, who believes a school district has denied the child or youth entry to or continuance of an education in the district

on the basis that mandatory fees cannot be paid may appeal to the department of education using the dispute resolution mechanism in rule 281—33.8(256).
[**ARC 7434C**, IAB 12/27/23, effective 1/31/24]

281—33.6(256) Waiver of enrollment requirements encouraged; placement.

33.6(1) If a homeless child or youth seeks to enroll or to remain enrolled in a public school district, the district is encouraged to waive any requirements, such as mandatory enrollment in a minimum number of courses, which would constitute barriers to the education of the homeless child or youth.

33.6(2) In the event that a school district is unable to determine the appropriate grade or placement for a homeless child or youth because of inadequate, nonexistent, or missing student records, the district will administer tests or utilize otherwise reasonable means to determine the appropriate grade level for the child or youth.
[**ARC 7434C**, IAB 12/27/23, effective 1/31/24]

281—33.7(256) Residency of homeless child or youth.

33.7(1) A child or youth, a preschool child if the school offers tuition-free preschool, or a preschool child with a disability who meets the definition of homeless in these rules is entitled to receive a free, appropriate public education and necessary support services in either of the following:

a. The district in which the homeless child or youth is actually residing, or

b. The district of origin.

The deciding factor as to which district has the duty to enroll the homeless child or youth is the best interests of the child or youth. In determining the best interests of the child or youth, the district(s), to the extent feasible, will keep a homeless child or youth in the district of origin, except when doing so is contrary to the wishes of the parent or guardian of the child or youth. In the case of an unaccompanied homeless youth, the local educational agency liaison assists in the placement or enrollment decision, taking into consideration the views of the unaccompanied homeless youth. If the child or youth is placed or enrolled in a school other than within the district of origin or other than a school requested by the parent or guardian or unaccompanied homeless youth, the district will provide a written explanation, including notice of the right to appeal under rule 281—33.8(256), to the parent or guardian or unaccompanied homeless youth.

33.7(2) The choice regarding placement is made regardless of whether the child or youth is living with a homeless parent or has been temporarily placed elsewhere by the parent(s); or, if the child or youth is a runaway or otherwise without benefit of a parent or legal guardian, where the child or youth has elected to reside.

33.7(3) Insofar as possible, a school district will not require a homeless student to change attendance centers within a school district when a homeless student changes places of residence within the district.

33.7(4) If a homeless child or youth is otherwise eligible and has made proper application to utilize the provisions of Iowa Code section 282.18 (open enrollment), the child or youth will not be denied the opportunity for open enrollment on the basis of homelessness.
[**ARC 7434C**, IAB 12/27/23, effective 1/31/24]

281—33.8(256) Dispute resolution.

33.8(1) If a homeless child or youth is denied access to a free, appropriate public education in either the district of origin or the district in which the child or youth is actually living, or if the child's or youth's parent or guardian believes that the child's or youth's best interests have not been served by the decision of a school district, an appeal may be made to the department of education as follows:

a. If the child is identified as a special education student under Iowa Code chapter 256B, the manner of appeal is by letter from the homeless child or youth, or the homeless child's or youth's parent or guardian, to the department of education as established in Iowa Code section 256B.6 and 281—Chapter 41 and governed by that chapter and the order of the presiding administrative law judge.

b. If the child is not eligible for special education services, the manner of appeal is by letter from the homeless child or youth or the homeless child's or youth's parent or guardian to the director of the department of education or a designated administrative law judge. The provisions of 281—Chapter 6 apply

insofar as possible; however, the hearing shall take place in the district where the homeless child or youth is located or at a location convenient to the appealing party.

c. At any time a school district denies access to a homeless child or youth, the district will notify in writing the child or youth and the child's or youth's parent or guardian, if any, of the right to appeal and manner of appeal to the department of education for resolution of the dispute and shall document the notice given. The notice will contain the name, address, and telephone number of the legal services office in the area.

33.8(2) This chapter will be considered by the presiding officer or administrative law judge assigned to hear the case.

33.8(3) Mediation and settlement of the dispute prior to hearing are permitted and encouraged.

33.8(4) While dispute resolution is pending, the child or youth is enrolled immediately in the school of choice of the child's parent or guardian or the school of choice of the unaccompanied homeless youth. The school of choice is to be an attendance center either within the district of residence or the district of origin of the child or youth.

[**ARC 7434C**, IAB 12/27/23, effective 1/31/24]

281—33.9(256) Transportation of homeless children and youth.

33.9(1) *General.* A child or youth, a preschool child if the school offers tuition-free preschool, or a preschool child with a disability who meets the definition of "homeless child or youth" in these rules shall not be denied access to a free, appropriate public education solely on the basis of transportation. The necessity for and feasibility of transportation are to be considered, however, in deciding which of two districts would be in the best interests of the homeless child or youth. The dispute resolution procedures in rule 281—33.8(256) apply to disputes arising over transportation issues.

33.9(2) *Entitlement.* Following the determination of the homeless child's or youth's appropriate school district under rule 281—33.7(256) or 281—33.9(256), transportation will be provided to the child or youth in the following manner:

a. If the appropriate district is determined to be the district in which the child or youth is actually living, transportation for the homeless child or youth is to be provided on the same basis as for any resident child of the district, as established by Iowa Code section 285.1 or local board policy.

b. If the appropriate district is determined to be a district other than the district in which the child or youth is actually living, the district in which the child or youth is actually living (sending district) and the district of origin will agree upon a method to apportion the responsibility and costs for providing the child with transportation to and from the receiving district. If these districts are unable to agree upon such method, the responsibility and costs for transportation will be shared equally.

[**ARC 7434C**, IAB 12/27/23, effective 1/31/24]

281—33.10(256) School services.

33.10(1) The school district designated for the homeless child's or youth's enrollment will make available to the child or youth all services and assistance, including the following services, on the same basis as those services and assistance are provided to resident pupils:

a. Compensatory education;

b. Special education;

c. English as a second language;

d. Career and technical education courses or programs;

e. Programs for gifted and talented pupils;

f. Health services;

g. Preschool (including Head Start);

h. Before- and after-school child care;

i. Food and nutrition programs;

j. School counseling services to advise homeless students and prepare and improve the readiness of such students for college.

33.10(2) A district must include homeless students in its academic assessment and accountability system under the federal Every Student Succeeds Act, P.L. 114-95, and report disaggregated data regarding the academic achievement and graduation rates for homeless children, as set forth in that Act.
[**ARC 7434C**, IAB 12/27/23, effective 1/31/24]

These rules are intended to implement the provisions of the McKinney-Vento Homeless Assistance Act (42 U.S.C. §11431, et seq.), as reauthorized December 10, 2015, by Title IX, Part A, of the Every Student Succeeds Act.

[Filed 9/15/89, Notice 7/26/89—published 10/4/89, effective 11/8/89]
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CHAPTER 34
FUNDING FOR CHILDREN RESIDING IN STATE INSTITUTIONS OR MENTAL HEALTH INSTITUTES

Chapter rescission date pursuant to Iowa Code section 17A.7: 5/22/29

281—34.1(282) Scope. These rules apply to the funding and provision of appropriate educational services to children residing in the following institutions under the jurisdiction of the director of the department of health and human services: the Mental Health Institute, Independence, Iowa; and the State Training School, Eldora, Iowa.

[**ARC 7791C**, IAB 4/17/24, effective 5/22/24]

281—34.2(282) Definitions. For the purposes of these rules, the following definitions apply:

"AEA" means an area education agency.

"Aggregate days" means the sum of the number of days of attendance, excluding days absent, for all school-age pupils who are enrolled during the school year. A student is considered enrolled after being placed in the institution and taking part in the educational program. Enrollment begins on the date that the student begins taking part in the educational program and ends on the date that the student leaves the institution or receives a high school diploma or its equivalent, whichever occurs first.

"Average daily attendance" or *"ADA"* means the average obtained by dividing the total of the aggregate days of attendance by the total number of student contact days. ADA for purposes of this chapter will be calculated on the regular school year exclusive of summer session.

"Department" means the Iowa department of education.

"District of residence" means the school district in which the parent or guardian of the child resides or as defined under operation of law. If the student's parental rights have been terminated or if a parent cannot be located in Iowa after a reasonable effort has been made, the school district of the child's residence is considered the district where the institution is physically located.

"Individualized education program" or *"IEP"* means the written record of an eligible individual's special education and related services developed in accordance with 281—Chapter 41. The IEP document records the decisions reached at the IEP meeting and sets forth in writing a commitment of resources necessary to enable an eligible individual to receive needed special education and related services appropriate to the individual's special learning needs. There is one IEP that specifies all the special education and related services for an eligible individual.

"Institution" means the Mental Health Institute, Independence, Iowa; and the State Training School, Eldora, Iowa.

"Proposed educational program" means a written description of the general education program, special education services, transition activities, and summer school programs that are proposed to be implemented in order to provide appropriate educational services for each child residing in an institution.

"Proposed educational program budget" means a document that outlines the costs for providing the proposed educational program as defined in these rules.

"Regular school year" means the number of days that school is in session, not to exceed 180 days. The regular school year for each institution shall begin on the first day of school established by the school district in which each institution is located.

"School-age pupil" means a student who is a resident of the state of Iowa and who is at least 5 years of age but less than 21 years of age on September 15 of the school year, or a younger age if served pursuant to an IEP.

"Student contact days" means the days during which the educational program is provided and students are under the guidance and instruction of the professional instructional staff.

"Transition" means communication between the institution, the child's district of residence, and any other relevant stakeholders to develop a plan for assisting the child to adjust to school in the district of residence upon the child's return. Planning for support and follow-up includes contacts with the child's district of residence, community agencies, and the AEA when needed.

[**ARC 7791C**, IAB 4/17/24, effective 5/22/24]

281—34.3(282) General principles.

34.3(1) *Availability.* All children who reside in state institutions and the mental health institute shall be provided appropriate educational services in accordance with these rules. Special education services to eligible individuals in institutions will be provided in accordance with 281—Chapter 41.

34.3(2) *Responsibility of institutions.* It is the responsibility of institutions to provide or make provisions for appropriate educational services to children residing in these institutions and to ensure appropriate transition of children back to the school district of residence. The institution may make provisions by contracting with the AEA, the school district in which the institution is located, or an approved charter school.

34.3(3) *Basis for funding.* Funding for general education programs at the institutions is determined using a formula similar to the formula used for the determination of funding for local school districts while considering the unique setting of the institutions. The amount of special education funding is determined by comparing the structure of the general education program at each institution to the nature and extent of services necessary for students with special education needs beyond what is provided to all students by the general education program.

34.3(4) *Responsibility of the AEA.* It is the responsibility of the AEA in which the institution is located to provide media services, educational services, and special education support services. The nature and extent of these services will be comparable to those provided to school districts in the AEA.

[**ARC 7791C**, IAB 4/17/24, effective 5/22/24]

281—34.4(282) Notification.

34.4(1) *Students served at mental health institute.* The Mental Health Institute, Independence, Iowa, will notify the district of residence of each child who, on the date specified in Iowa Code section 257.6(1), is residing in this institution. The notification will occur on or before October 10 and be in writing or in a printable electronic medium and include the child's name, birth date, and grade level and the names and addresses of the child's parents or guardians.

34.4(2) *Students served at the State Training School at Eldora.* The State Training School at Eldora will notify the AEA in which the institution is located and the district of residence of each child who, on the date specified in Iowa Code section 257.6(1), is residing in the institution if the child's release date is known and the release date is within the current school year. The notification will occur on or before October 10. For students served pursuant to an IEP, the State Training School at Eldora will by the last Friday in October also notify the AEA in which the institution is located and the district of residence of each child residing in the institution if the child's release date is known and the release date is within the current school year. Notifications will be in writing or in a printable electronic medium and include the child's name, birth date, and grade level and the names and addresses of the child's parents or guardians.

[**ARC 7791C**, IAB 4/17/24, effective 5/22/24]

281—34.5(218) Program submission and approval. Educational programs will be submitted, reviewed, modified, and approved using the following procedures:

34.5(1) *Submission.* Each institution will submit a proposed educational program in a time and manner specified by Iowa Code section 282.33(1). The proposed program will be submitted in the manner prescribed by the department and include a description of the following:

a. The general education program, including content standards, benchmarks, student learning goals and all other provisions of 281—Chapter 12.

b. Special education services, including instructional, support and other services that ensure the provision of a free appropriate public education in the least restrictive environment for students with disabilities in accordance with 281—Chapter 41.

c. Procedures that will be implemented to ensure the effective transition of each child back to the district of residence.

34.5(2) *Approval.* The department will review and approve or modify the proposed educational program at a time and manner specified in Iowa Code section 282.33(1).

[**ARC 7791C**, IAB 4/17/24, effective 5/22/24]

281—34.6(218) Budget submission and approval. Educational program budgets will be submitted, reviewed, modified, and approved using the following procedures:

34.6(1) *Submission.* Each institution will submit a proposed educational program budget in a time and manner specified by Iowa Code section 282.33(1). The proposed budget is to be based on the ADA of the children residing in the institution. The ADA used for the proposed budget is the ADA for the school year that ended the previous June 30.

34.6(2) *Students not served pursuant to an IEP.* The budget will be calculated as the sum of the following:

a. ADA multiplied by the state cost per pupil for the budget year established pursuant to Iowa Code section 257.9.

b. ADA multiplied by the per pupil media services funding for the AEA in which the institution is located as established by Iowa Code section 257.37.

c. ADA multiplied by the per pupil educational services funding for the AEA in which the institution is located as established by Iowa Code section 257.37.

34.6(3) *Students served pursuant to an IEP.* The budget will be calculated as the sum of the following:

a. Costs established pursuant to subrule 34.6(2) for students not served pursuant to an IEP.

b. Additional weighting established by the special education weighting plan pursuant to Iowa Code section 257.31(12) as appropriate to support the nature and extent of special education services provided pursuant to subrule 34.3(3).

c. Special education student count multiplied by the special education support cost per pupil funding established for the AEA in which the institution is located pursuant to Iowa Code section 257.9.

d. The State Training School at Eldora may include in its budget an amount that represents the difference between the amount established pursuant to Iowa Code section 282.28 (2003) and approved by the department for the 2003-2004 fiscal year included in the fiscal year beginning July 1, 2003, and the amount the institution has budgeted under paragraph 34.6(3)*"c."* The budget amount will increase annually by the allowable growth rate established for that year.

e. In addition to the amount the institution has budgeted as specified in paragraph 34.6(3)*"c,"* the mental health institute may include annually in its budget an amount not to exceed $200,000 based on the budget calculation specified in paragraph 34.6(2)*"a."* This budgeted amount may be adjusted to an amount that exceeds $200,000 in circumstances when there is a significant increase in the number of students in attendance. This additional amount will increase annually by the allowable growth rate established for that year.

34.6(4) *Approval.* The department will review and approve or modify the proposed educational program budget at a time and manner specified in Iowa Code section 282.33(1).

[**ARC 7791C**, IAB 4/17/24, effective 5/22/24]

281—34.7(282) Payments.

34.7(1) *General.* Payments to institutions will be made at a time and manner specified in Iowa Code section 282.33(1).

34.7(2) *Payments to the AEA.* Within ten days of receiving its payment, the institution shall pay to the AEA in which the institution is located one-tenth of the total funding included in its approved budget for AEA media services, educational services, and special education support services.

[**ARC 7791C**, IAB 4/17/24, effective 5/22/24]

281—34.8(282) Accounting for actual program costs. Each institution will submit an accounting for the actual cost of the program to the department at a time and manner specified by Iowa Code section 282.33(1).

34.8(1) *Instructional costs.* Actual costs include salaries and benefits of instructional staff, instructional supplies and materials, professional development for instructional staff, student transportation, contracted services related to instruction or instructional staff, and instructional equipment.

34.8(2) *Administrative costs.* Costs for administering the educational program may be included in actual costs based on the ADA of students in the institution. Costs are to be limited to the salary and

benefits of the full-time equivalent education administrators and clerical support for the instructional program. However, the full-time equivalent (FTE) positions at any institution will not exceed 1.0 FTE position for education administration and 1.0 FTE position for clerical support.

34.8(3) *Unallowed costs.* Costs will not include expenditures for debt services or for facilities acquisition and construction services, including remodeling and facility repair. Costs of residential, custodial, treatment, and similar services provided by the institution will not be included in the actual costs. Costs provided for by a grant or other categorical aid shall not be included in the actual cost calculations pursuant to this chapter.

34.8(4) *Summer school costs.* Costs for providing summer school will be reported separately from regular session costs. Except as approved by the department of education, summer session costs are considered to be included in the state cost per pupil, or as provided in an appropriation through the department of health and human services.

34.8(5) *Instruction to nonresident students.* Costs for providing instruction to students who are not residents of the state of Iowa are excluded from the actual cost calculations.

34.8(6) *Maximum costs for students who are not served pursuant to an IEP.* Actual costs for serving students who are not served pursuant to an IEP will not exceed the greater of the actual ADA for the school year multiplied by the state cost per pupil or the ADA from the approved budget multiplied by the state cost per pupil.

34.8(7) *Maximum costs for students served pursuant to an IEP.* Actual costs for students served pursuant to an IEP will not exceed the amount calculated in subrule 34.6(3).

34.8(8) *Approval of expenditures.* The department will review and approve or modify all expenditures incurred in compliance with the guidelines adopted pursuant to Iowa Code section 256.7(10) and notify the department of revenue of the approved accounting amount. The approved accounting amount will be compared with any amounts paid by the department of revenue to the department of health and human services and any differences added to or subtracted from the October payment made under these rules for the next school year.

34.8(9) *Costs of courses.* Costs include the actual expenses, if reasonable and customary, for tuition, textbooks, course materials, and fees directly related to courses taken pursuant to rule 281—34.10(282) by students who are residents of the state of Iowa.

34.8(10) *Accounting for ADA.* Each institution will keep a daily register that includes the name, birth date, district of residence, attendance, and enrollment status of each student. At the end of the school year, each institution will calculate the ADA for students served pursuant to an IEP and the ADA for students not served pursuant to an IEP. This information will be reported with the accounting for the actual program costs submitted to the department by August 1.

34.8(11) *Audit.* Each institution will make the records related to providing educational services to students residing within the institution available to independent auditors, state auditors and department of education staff upon request.

[**ARC 7791C**, IAB 4/17/24, effective 5/22/24]

281—34.9(282) AEA services. Each institution will purchase from the AEA in which the institution is located support, related and other services necessary to provide appropriate educational programs to students requiring special education, and payment for the purchased services shall be made in accordance with subrule 34.7(2). The nature and extent of such services will be comparable to those provided to school districts in the AEA.

[**ARC 7791C**, IAB 4/17/24, effective 5/22/24]

281—34.10(282) Postsecondary credit courses. High school students who attend an institution and are residents of the state of Iowa are eligible to be enrolled in college courses offered by an eligible postsecondary institution as defined in Iowa Code section 261E.2(3) and to receive both secondary and postsecondary credit therefor.

34.10(1) *Noneligible courses.* Postsecondary courses utilized in the attainment of an adult diploma or high school equivalency diploma are not eligible for funding hereunder.

34.10(2) *Eligible courses.* Postsecondary courses eligible for funding hereunder must meet all of the following paragraphs. The course is to be:

a. Supplementing, not supplanting, courses offered at the institution.

b. Included in the college catalog or an amendment or addendum to the catalog.

c. Open to all registered college students, not just secondary students.

d. Taught by a college-employed instructor.

e. Taught utilizing the college course syllabus.

f. Of the same quality as a course offered on a college campus.

g. Nonsectarian.

34.10(3) *Maximum number of college courses allowed.* A student is allowed to take a maximum of three college courses during a semester, for a maximum of six college courses per regular school year, while the student is in attendance at the institution. College courses taken outside the regular school year will not be funded under this chapter. If the student exceeds the course limit, the costs of the additional courses will not be funded under this chapter.

[**ARC 7791C**, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code section 282.33.

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[Filed ARC 7791C (Notice ARC 7588C, IAB 2/7/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 35
EDUCATIONAL AND PROGRAM STANDARDS FOR CHILDREN'S RESIDENTIAL FACILITIES

Chapter rescission date pursuant to Iowa Code section 17A.7: 4/10/29

281—35.1(282) General. All school-age children, including children younger than 5 years of age and older than 18 years of age who are eligible children to receive special education, who are living in any children's residential facility providing residential care to children within the state of Iowa, which is not otherwise exempted by the Iowa Code, are to be provided an appropriate education.
[**ARC 7656C**, IAB 3/6/24, effective 4/10/24]

281—35.2(282) Definitions. For purposes of this chapter, the following definitions apply:

"Child" or *"children"* means an individual or individuals under 18 years of age. A child is "school-age" if the child is at least 5 years of age on September 15 but not more than 21 years of age or if the child is younger than 5 years of age or older than 18 years of age and is an eligible child to receive special education.

"Children's residential facility" means the same as defined in Iowa Code section 237C.1(3) and may also be referred to as a "private facility." It does not include any facility that houses school-age children and children eligible to receive special education who are under the jurisdiction of the department of corrections, department of health and human services, board of regents, or other governmental agency and that has current authority to offer direct instruction to children from funding available to one of the above agencies.
[**ARC 7656C**, IAB 3/6/24, effective 4/10/24]

281—35.3(282) Establishing an appropriate educational program. A children's residential facility may accept any child of school age or a child who is eligible to receive special education services only after it has been issued a certificate of approval by the department of health and human services and has established an appropriate educational program and services under this chapter.

35.3(1) A private facility will establish an appropriate educational program using one of the options provided in Iowa Code section 282.34(1).

35.3(2) Any contract established by the private facility with a school district or accredited nonpublic school is to include, at a minimum, the physical location of the educational program and educational services; the parties involved; the purpose of the contract; the program description in detail; the powers, duties and authority of each party to the contract; the jurisdiction of each party to the contract; the dispute resolution procedure; specifications of the services that are contracted, if any, and how costs are to be calculated; billing procedures; how each legal, testing, and reporting obligation will be met; ownership of property belonging to the party that paid the cost or contributed the item; contract amendment procedures; contract approval procedures; contract renewal and termination procedures; duration of the contract; cross indemnification; application of laws, rules and regulations; binding effect; severability; assurances; and signature of the school board with legal power to authorize the terms of the contract. Any contract developed under this rule is to be submitted to the department of education for review and approval by the director of the department prior to enactment. A contract that fails to comply with any of the provisions of this chapter is void.

35.3(3) Children residing in a private facility who need treatment or security throughout the day shall have classrooms made available at the site of the private facility at no cost to the school district providing the instructional program or instructional supervision. The classroom is to meet the requirements for educational space for children in accordance with the Iowa Code, administrative rules, and state fire marshal regulations.

35.3(4) Nothing included in this chapter regulates religious education curricula of any private facility.
[**ARC 7656C**, IAB 3/6/24, effective 4/10/24]

281—35.4(282) Notices, fees, and reporting.

35.4(1) A private facility is to comply with Iowa Code sections 282.34(1)*"b"* and 282.34(1)*"c."*

35.4(2) If the educational programs and educational services are provided by or through the public school district of location, only fees related to the educational programs and educational services that are authorized by the Iowa Code, including but not limited to Iowa Code chapter 282, may be charged. The public school district cannot charge nonresident students a higher fee than resident students.

35.4(3) A private facility is to comply with requests by the Iowa department of education for basic educational and financial information.

[**ARC 7656C**, IAB 3/6/24, effective 4/10/24]

281—35.5(282) Provision of appropriate educational services.

35.5(1) A private facility is to fully cooperate with the area education agency and school district in which the facility is located to fulfill the area education agency's responsibilities for child find under 281—Chapter 41, including making a child available for evaluation and provision of services for which the child is eligible.

35.5(2) If a child does not need treatment or security by a private facility in such a time or manner as is needed to remain on the campus of the private facility, a child with an individual education plan is to be provided special education instruction and related services with other nondisabled children within the least restrictive environment to the maximum extent appropriate.

35.5(3) The area education agency in which the private facility is located, the school district of residence, and other appropriate public or private agencies or private individuals involved with the care or placement of a child will cooperate with the school district in which the private facility is located in sharing educational information, textbooks, curricula, assignments, and materials to plan and to provide for the appropriate education of the child living in a private facility and to ensure academic credit is granted to the child for instructional time earned upon discharge from the private residential facility.

35.5(4) A private facility that houses eligible children who are four years of age by September 15 of the school year will notify the parents or legal guardians of these eligible children about the opportunities to access quality preschool programs. Children whose parents are Iowa residents may access the statewide voluntary preschool program under 281—Chapter 16 at no cost to the parents, and transportation will be provided by the public school district in which the statewide voluntary preschool provider is located from the school district's statewide voluntary preschool programs funding. Children whose parents are not Iowa residents may access the statewide voluntary preschool programs, if space is available, through a tuition and transportation agreement with the public school district in which the statewide voluntary preschool program provider is located.

[**ARC 7656C**, IAB 3/6/24, effective 4/10/24]

These rules are intended to implement Iowa Code section 282.34.

[Filed ARC 2946C (Notice ARC 2852C, IAB 12/7/16), IAB 2/15/17, effective 3/22/17]

[Filed ARC 7656C (Notice ARC 7162C, IAB 12/13/23), IAB 3/6/24, effective 4/10/24]

TITLE VI
INTERSCHOLASTIC COMPETITION

CHAPTER 36
EXTRACURRICULAR INTERSCHOLASTIC COMPETITION

[Prior to 9/7/88, see Public Instruction Department[670] Ch 9]

Chapter rescission date pursuant to Iowa Code section 17A.7: 4/10/29

281—36.1(280) Definitions.

"Associate member school" means a nonaccredited nonpublic school that has been granted associate member status by any corporation, association, or organization registered with the department pursuant to Iowa Code section 280.13, upon approval by the department based upon proof of compliance with:

1. Iowa Code section 279.19B, and rules adopted by the department related to the qualifications of the affected teaching staff, and
2. The student eligibility rules of this chapter.

Associate membership is subject to the requirements, dues, or other obligations established by the organization for which associate membership is sought.

"Coach" means an individual, with coaching endorsement or authorization as required by Iowa law, employed by a school district under the provisions of an extracurricular athletic contract or employed by a nonpublic school in a position responsible for an extracurricular athletic activity. "Coach" also includes an individual who instructs, diagnoses, prescribes, evaluates, assists, or directs student learning of an interscholastic athletic endeavor on a voluntary basis on behalf of a school or school district.

"Compete" means participating in an interscholastic contest or competition and includes dressing in full team uniform for the interscholastic contest or competition as well as participating in pregame warm-up exercises with team members. "Compete" does not include any managerial, recordkeeping, or other noncompetitor functions performed by a student on behalf of a member or associate member school.

"Department" means the Iowa department of education.

"Dropout" means a student who quit school because of extenuating circumstances over which the student had no control or who voluntarily withdrew from school. This does not include a student who has been expelled or one who was doing failing work when the student voluntarily dropped from school.

"Executive board" means the governing body authorized under a constitution or bylaws to establish policy for an organization registered under this chapter.

"Executive officer" means the executive director or secretary of each governing organization.

"Member school," for purposes of this chapter, means a public school or accredited nonpublic school that has been granted such status by any corporation, association, or organization registered with the department pursuant to Iowa Code section 280.13.

"Parent" means the natural or adoptive parent having actual bona fide custody of a student.

"Student" means a person under 20 years of age enrolled in grades 9 through 12. For purposes of these rules, ninth grade begins with the summer immediately following eighth grade. The rules contained herein apply uniformly to all students.

"Superintendent" means a superintendent of a local school or a duly authorized representative.

"Varsity" means the highest level of competition offered by one school or school district against the highest level of competition offered by an opposing school or school district.

[**ARC 7657C**, IAB 3/6/24, effective 4/10/24]

281—36.2(280) Registered organizations. Organizations registered with the department include the following:

36.2(1) Iowa High School Athletic Association (hereinafter association).
36.2(2) Iowa Girls' High School Athletic Union (hereinafter union).
36.2(3) Iowa High School Music Association (hereinafter music association).
36.2(4) Iowa High School Speech Association (hereinafter speech association).
36.2(5) Unified Iowa High School Activities Federation (hereinafter federation).

281—36.3(280) Filings by organizations. Each organization will maintain a current file of the following items, available for inspection by the department:

36.3(1) Constitution and bylaws, approved by the state board of education.

36.3(2) Current membership and associate membership lists.

36.3(3) Organization policies.

36.3(4) Minutes of all meetings of organization boards.

36.3(5) Proposed constitution and bylaw amendments or revisions.

36.3(6) Audit reports.

36.3(7) General bulletins.

36.3(8) Other information pertinent to clarifying organization administration.

[**ARC 7657C**, IAB 3/6/24, effective 4/10/24]

281—36.4(280) Executive board.

36.4(1) *Membership.* Each organization will have an executive board, containing some representation from school administrators, teachers, and elective school officers; provided, however, that the membership will include the following:

a. One member who is a member of a school board in Iowa, appointed by the Iowa association of school boards to represent the lay public.

b. One member who is either a coach, sponsor or director of an activity sponsored by the organization to which the member is elected and who works directly with the students or the program. This member is to be elected by ballot of the member schools, the vote to be cast by the school's designated representative of the organization involved.

36.4(2) *Organization elections.* The election procedure for each organization is to be conducted as provided by the organization's constitution, which is to set criteria for protecting the voter's anonymity and ensuring adequate notice of elections. In addition, one representative designated by the department director will be present at the counting of all ballots and will validate election results.

36.4(3) *Federation membership.* The federation, in addition to conforming to other requirements in this rule, will have in its membership the executive board of the association, union, music association, speech association, and school administrators of Iowa.

[**ARC 7657C**, IAB 3/6/24, effective 4/10/24]

281—36.5(280) Fiscal provisions.

36.5(1) *Salary.* No remuneration, salary, or remittance may be made to any member of an executive board, representative council or advisory committee of an organization for the member's service.

36.5(2) *Expenses.* Travel and actual expenses of executive board members, representative council members, advisory committee members, and officers may be paid from organizational funds only when on official business for the organization. Actual expenses are to be paid for travel for transportation outside the state, along with necessary and reasonable expenses that are to be itemized. Itemized accounting of the travel and business expenses of employees are to be furnished to the department in an annual report on a form prescribed by the department.

36.5(3) *Financial report.* Full and detailed reports of all receipts and expenditures are to be filed annually with the department.

36.5(4) *Bond.* The executive board of each activity organization will purchase a blanket fidelity bond from a corporate surety approved by the executive board, conditioned upon the faithful performance of the duties of the executive officer, the members of the executive board, and all other employees of the activity organization. Such blanket bond is to be in a penal amount set by the executive board and is to be the sum of 50 percent of the largest amount of moneys on hand in any 30-day period during the preceding fiscal year, and 20 percent of the net valuation of all assets of the activity organization as of the close of the last fiscal year, but such bond will in no case be in an amount less than $10,000.

36.5(5) *Audit.*

a. General. The financial condition and transaction of all organizations will be examined once each year, or more often if directed by the director of education, by either a certified public accountant chosen by the organization or by a committee chosen by the organization and approved by the director of education.

b. Examinations by auditors. Auditors have the right while making the examination to examine all organization papers, books, records, tickets, and documents of any of the officers and employees of the organizations, and have the right in the presence of the custodian or deputy to have access to the cash drawers and cash in the official custody of the officer and to the records of any depository that has funds of the organization in its custody.

c. Access to records. Upon request, organizations will make available to the department or its delegated representative all records, data, written policies, books, accounts, and other materials relating to any or all aspects of their operations.

[**ARC 7657C**, IAB 3/6/24, effective 4/10/24]

281—36.6(280) Appearance before state board. At the request of the state board of education or its executive officer, members of the governing boards and employees of the organizations will appear before and give a full accounting and details on the aforesaid matters to the state board of education.

[**ARC 7657C**, IAB 3/6/24, effective 4/10/24]

281—36.7(280) Interscholastic athletics. In addition to the requirements of rule 281—36.8(280), organizations will implement the provisions described below for participants in interscholastic athletic competition.

36.7(1) *Physical examination.* Every year, each student will present to the student's superintendent a certificate signed by a licensed physician and surgeon, osteopathic physician and surgeon, osteopath, qualified doctor of chiropractic, licensed physician assistant, or advanced registered nurse practitioner, to the effect that the student has been examined and may safely engage in athletic competition.

Each doctor of chiropractic licensed as of July 1, 1974, is to affirm on each certificate of physical examination completed that the affidavit required by Iowa Code section 151.8 is on file with the Iowa board of chiropractic.

The certificate of physical examination is valid for the purpose of this rule for one calendar year. A grace period not to exceed 30 calendar days is allowed for expired physical certifications.

36.7(2) *Sportsmanship.* It is the clear obligation of member and associate member schools to ensure that their contestants, coaches, and spectators in all interscholastic competitions practice the highest principles of sportsmanship, conduct, and ethics of competition. The governing organization has the authority to penalize any member school, associate member school, contestant, or coach in violation of this obligation.

36.7(3) *Awards.* At no time may any student accept an award of cash.

36.7(4) *Interstate competition.* Every student participating in interstate athletic competition on behalf of the student's school must meet the eligibility rules.

36.7(5) *Competition seasons.* The length of training periods and competition seasons is determined solely by the governing organization.

36.7(6) *Tournaments.* The number and type of state tournaments for the various sports is solely determined by the organization. In scheduling and conducting these tournaments, the organization has the final authority for determining the tournament eligibility of all participants. Organization bylaws are to provide for a timely method of seeking an internal review of initial decisions regarding tournament eligibility.

36.7(7) *Ineligible player competition.* Member or associate member schools that permit or allow a student to compete in an interscholastic competition in violation of the eligibility rules or that permit or allow a student who has been suspended to so compete are subject to penalties imposed by the executive board. The penalties may include forfeiture of contests or events or both, involving any ineligible student(s); adjustment or relinquishment of conference/district/tournament standings; and return of team awards or individual awards or both.

If a student who has been declared ineligible or who has been suspended is permitted to compete in an interscholastic competition because of a current restraining order or injunction against the school, registered organization, or department, and if such restraining order or injunction subsequently is voluntarily vacated, stayed, reversed, or finally determined by the courts not to justify injunctive relief, the penalties listed above may be imposed.

This rule is intended to implement Iowa Code section 280.13.
[**ARC 7657C**, IAB 3/6/24, effective 4/10/24]

281—36.8(280) Eligibility requirements.

36.8(1) *Local eligibility and student conduct rules.* Local boards of education may impose additional eligibility requirements not in conflict with these rules. Nothing herein is to be construed to prevent a local school board from declaring a student ineligible to participate in interscholastic competition by reason of the student's violation of rules adopted by the school pursuant to Iowa Code sections 279.8 and 279.9. A member or associate member school shall not allow any student, including any transfer student, to compete until such time as the school has reasonably reliable proof that the student is eligible to compete for the member or associate member school under these rules.

36.8(2) *Scholarship rules.*

a. All contestants are to be enrolled and in good standing in a school that is a member or associate member in good standing of the organization sponsoring the event.

b. All contestants who have attained the age of 20 years old are not eligible.

c. All contestants will receive credit in at least four subjects, each of one period or "hour" or the equivalent thereof, at all times. To qualify under this rule, a "subject" will meet the requirements of 281—Chapter 12. Coursework taken from a postsecondary institution and for which a school district or accredited nonpublic school grants academic credit toward high school graduation is used in determining eligibility. No student is to be denied eligibility if the student's school program deviates from the traditional two-semester school year.

(1) Each contestant shall be passing all coursework for which credit is given and making adequate progress toward graduation requirements at the end of each grading period. Grading period, graduation requirements, and any interim periods of ineligibility are determined by local policy. For purposes of this subrule, "grading period" means the period of time at the end of which a student in grades 9 through 12 receives a final grade and course credit is awarded for passing grades.

(2) If at the end of any grading period a contestant is given a failing grade in any course for which credit is awarded, the contestant is ineligible to dress for and compete in the next occurring interscholastic athletic contests and competitions in which the contestant is a contestant for 20 consecutive calendar days, unless the student has already served a period of ineligibility for 20 consecutive calendar days in another school-sponsored activity. A student will not serve multiple periods of ineligibility because of a failing grade.

d. A student with a disability who has an individualized education program will not be denied eligibility on the basis of scholarship if the student is making adequate progress, as determined by school officials, toward the goals on the student's individualized education program, unless the course in which the student receives a failing grade has no relationship to those goals.

e. A student who meets all other qualifications may be eligible to participate in interscholastic athletics for a maximum of eight consecutive semesters upon entering the ninth grade for the first time. However, a student who engages in athletics during the summer following eighth grade is also eligible to compete during the summer following twelfth grade. Extenuating circumstances, such as health, may be the basis for an appeal to the executive board that may extend the eligibility of a student when the executive board finds that the interests of the student and interscholastic athletics will be benefited.

f. All member schools will provide appropriate interventions and necessary academic supports for students who fail or who are at risk to fail.

g. A student is academically eligible upon entering the ninth grade.

h. A student is not eligible to participate in an interscholastic sport if the student has, in that same sport, participated in a contest with or against, or trained with, a National Collegiate Athletic Association (NCAA), National Junior College Athletic Association (NJCAA), National Association of Intercollegiate Athletics (NAIA), or other collegiate governing organization's sanctioned team. A student may not participate with or against high school graduates if the graduates represent a collegiate institution or if the event is sanctioned or sponsored by a collegiate institution. Nothing in this subrule precludes a student from participating in a one-time tryout with or against members of a college team with permission from the member school's administration and the respective collegiate institution's athletic administration.

i. No student is eligible to participate in any given interscholastic sport if the student has engaged in that sport professionally.

j. The local superintendent of schools, with the approval of the local board of education, may give permission to a dropout student to participate in athletics upon return to school if the student is otherwise eligible under these rules.

k. Remediation of a failing grade by way of summer school or other means does not affect the student's ineligibility. All failing grades will be reported to any school to which the student transfers.

36.8(3) *General transfer rule.* A student who transfers from a school in another state or country or from one member or associate member school to another member or associate member school shall be ineligible to compete in interscholastic athletics for a period of 90 consecutive school days, as defined in 281—Chapter 12, exclusive of summer enrollment, unless one of the exceptions listed in paragraph 36.8(3) *"a"* applies. The period of ineligibility applies only to varsity level contests and competitions. In ruling upon the eligibility of transfer students, the executive board will consider the factors motivating student changes in residency, which it may consider from both direct and circumstantial evidence. Unless otherwise provided in these rules, a student intending to establish residency must show that the student is physically present in the district for the purpose of making a home and not solely for school or athletic purposes.

a. Exceptions. The executive officer or executive board will consider and apply the following exceptions in formally or informally ruling upon the eligibility of a transfer student and may make eligibility contingent upon proof that the student has been in attendance in the new school for at least ten school days:

(1) Upon a contemporaneous change in parental residence, a student is immediately eligible if the student transfers to the new district of residence or to an accredited nonpublic member or associate member school located in the new school district of residence. In addition, if with a contemporaneous change in parental residence, the student had attended an accredited nonpublic member or associate member school immediately prior to the change in parental residence, the student may have immediate eligibility if the student transfers to another accredited nonpublic member or associate member school. For purposes of this subparagraph, a contemporaneous change in parental residence includes a change in a student's residence from the residence of one parent or guardian to the residence of a different parent or guardian.

(2) If the student is attending in a school district as a result of a whole-grade sharing agreement between the student's resident district and the new school district of attendance, the student is immediately eligible.

(3) A student who has attended high school in a district other than where the student's parent(s) resides, and who subsequently returns to live with the student's parent(s), becomes immediately eligible in the parent's resident district.

(4) A student whose residence changes due to any of the following circumstances set forth in Iowa Code section 256.46 is immediately eligible provided the student meets all other eligibility requirements in these rules and those set by the school of attendance. For purposes of Iowa Code section 256.46(1)*"d,"* participation in a foreign exchange program is based on a J-1 visa issued by the United States government, unless the student attends the school primarily for athletic purposes.

(5) A transfer student who attends in a member or associate member school that is a party to a cooperative student participation agreement, as defined in rule 281—36.13(280), with the member or associate member school the student previously attended is immediately eligible in the new district to compete in those interscholastic athletic activities covered by the cooperative agreement.

(6) Any student whose parents change district of residence but who remains in the original district without interruption in attendance continues to be eligible in the member or associate member school of attendance.

(7) A special education student whose attendance center changes due to a change in placement agreed to by the district of residence is eligible in either the resident district or the district of attendance, but not both.

(8) A student who is found by the attending district to be a homeless child or youth as described in rule 281—33.2(256) is eligible.

(9) In any transfer situation not provided for elsewhere in this chapter, the executive board will exercise its administrative authority to make any eligibility ruling that it deems to be fair and reasonable. The executive board will consider the motivating factors for the student transfer, which it may consider from both direct and circumstantial evidence. The determination will be made in writing with the reasons for the determination clearly delineated. The burden of proving entitlement to administrative discretion under this provision lies with the party seeking it.

b. In ruling upon the transfer of students who have been emancipated by marriage or have reached the age of majority, the executive board will consider all circumstances with regard to the transfer to determine if it is principally for school or athletic purposes, in which case participation will not be approved.

c. A student who participates in the name of a member or associate member school during the summer following eighth grade is ineligible to participate in the name of another member or associate member school in the first 90 consecutive school days of ninth grade unless a change of residence has occurred after the student began participating in the summer.

d. A school district that has more than one high school in its district will set its own eligibility policies regarding intradistrict transfers, subject to Iowa Code section 279.82(6).

36.8(4) *Open enrollment transfer.* The transfer of a student in grades 9 through 12 whose transfer of schools had occurred due to a request for open enrollment is governed by Iowa Code section 282.18(9).

36.8(5) *Eligibility for other enrollment options.*

a. Shared-time students. A nonpublic school student who is enrolled only part-time in the public school district of the student's residence under a "shared-time" provision or for driver education is not eligible to compete in interscholastic athletics in the public school district.

b. Dual enrollment. A student who receives competent private instruction, not in an accredited nonpublic or public school, may seek dual enrollment in the public school of the student's resident district and is eligible to compete in interscholastic athletic competition in the resident school district provided the student meets the eligibility requirements of these rules and those set by the public school of attendance.

If a student seeking such dual enrollment is enrolled in an associate member school of the union or association, the student is eligible for and may participate in interscholastic athletic competition only for the associate member school or a school with which the associate member school is in a cooperative sharing agreement. (Eligibility in such case is governed by rule 281—36.1(280).)

Any ineligibility imposed under this chapter begins with the first day of participation under dual enrollment. Any period of ineligibility applies only to varsity level contests and competitions.

c. Competent private instruction. A student who receives competent private instruction, and is not dual-enrolled in a public school, may participate in and be eligible for interscholastic athletics at an accredited nonpublic school if the student is accepted by that school and the student meets the eligibility requirements of this chapter and those set by the accredited nonpublic school where the student participates. Application will be made to the accredited nonpublic school on a form provided by the department.

If a student seeking such participation is enrolled in an associate member school of the union or association, the student is eligible for and may participate in interscholastic athletic competition only for the associate member school or a school with which the associate member school is in a cooperative sharing agreement. (Eligibility in such case is governed by rule 281—36.1(280).)

Any ineligibility imposed under this chapter begins with the first day of participation with the accredited nonpublic school. Any period of ineligibility applies only to varsity level contests and competitions.

36.8(6) *Summer camps and clinics and coaching contacts out of season.*

a. School personnel, whether employed or volunteers, of a member or associate member school shall not coach that school's student athletes during the school year in a sport for which the school personnel are currently under contract or are volunteers, outside the period from the official first day of practice through the finals of tournament play. However, school personnel may coach a senior student from the coach's school in an all-star contest once the senior student's interscholastic athletic season for that sport has concluded. In addition, volunteer or compensated coaching personnel shall not require students to

participate in any activities outside the season of that coach's sport as a condition of participation in the coach's sport during its season.

b. A summer team or individual camp or clinic held at a member or associate member school facility shall not conflict with sports in season. Coaching activities between June 1 and the first day of fall sports practices will not conflict with sports in season. The associations in their discretion may establish a dead period up to 14 calendar days in length. During a dead period, coaches will not be allowed to have contact with students.

c. Penalty. A school whose volunteer or compensated coaching personnel violate this rule is ineligible to participate in a governing organization-sponsored event in that sport for one year with the violator(s) coaching.

36.8(7) *Nonschool team participation.* The local school board will, by policy, determine whether or not participation in nonschool athletic events during the same season is permitted and provide penalties for students who may be in violation of the board's policy.

This rule is intended to implement Iowa Code sections 256.46, 280.13 and 282.18.

[**ARC 7657C**, IAB 3/6/24, effective 4/10/24]

281—36.9(280) Executive board review. A student, parent of a minor student, or school contesting the ruling of a student's eligibility based on these rules, other than subrule 36.8(1) or paragraph 36.8(2)*"b," "c," "d," "f,"* or *"k"* or based on a challenge to a local district finding that a student was not subject to a founded incident of harassment or bullying, or a school contesting a penalty imposed under paragraph 36.8(6)*"b,"* will state the basis of the objections in writing, addressed to the executive officer of the board of the governing organization. Upon request of a student, parent of a minor student, or school, the executive officer will schedule a hearing before the executive board on or before the next regularly scheduled meeting of the executive board but not later than 20 calendar days following the receipt of the objections, unless a later time is mutually agreeable. The executive board will give at least five business days' written notice of the hearing. The executive board will consider the evidence presented and issue findings and conclusions in a written decision within five business days of the hearing and will mail a copy to the appellant. The burden of proving entitlement to relief under this rule lies with the party seeking it.

[**ARC 7657C**, IAB 3/6/24, effective 4/10/24]

281—36.10(280) Appeals to director. If the claimant is still dissatisfied, an appeal may be made in writing to the director of education by giving written notice of the appeal to the state director of education with a copy by registered mail to the executive officer of the governing organization. An appeal is to be in the form of an affidavit and be filed within ten business days after the date of mailing of the decision of the governing organization. The director of education will establish a date for hearing within 20 calendar days of receipt of written notice of appeal by giving at least 5 business days' written notice of hearing to the appellant, unless another time is mutually agreeable. The procedures for hearing adopted by the state board of education and found at 281—Chapter 6 are applicable, except that the decision of the director is final. Appeals to the executive board and the state director are not contested cases under Iowa Code section 17A.2(5). The burden of proving entitlement to relief under this rule lies with the party seeking it.

[**ARC 7657C**, IAB 3/6/24, effective 4/10/24]

281—36.11(280) Organization policies. The constitution or bylaws of organizations sponsoring contests for participation by member schools will reflect the following policies:

36.11(1) *Expenditure policy.* It is the expenditure policy of each organization, after payment of costs incurred in rules 281—36.6(280) through 281—36.9(280) and legitimate expenses for housing, equipment and supplies, including by agreement with other organizations having a mutual interest in interscholastic activities, to use all receipts to promote and fiscally sponsor those extracurricular interscholastic contests and competitions deemed by the organization to be most beneficial to all eligible students enrolled in member schools. Organizations with large revenues may provide assistance in staff, space, equipment and the transfer of funds to other organizations whose contests or competitions do not generate sufficient moneys to carry out an adequate program in their areas of service. Each organization will make an annual

payment to the federation to cover the necessary expenditures of the federation. The amount of this payment will be determined by the federation.

36.11(2) *Calendar of events.* The federation will establish yearly in advance a calendar of events for the interscholastic contests and competitions sponsored by the organizations.

36.11(3) *Information to local member schools.* The federation will distribute to member schools the yearly calendar of events and other information believed by officers of the federation to be helpful to local school officials in providing a comprehensive program of extracurricular interscholastic contests or competitions.

36.11(4) *Participation.* Participation in interscholastic contests or competitions will be by school teams only and not selected individuals, with the exception of individual sports events such as wrestling, track, cross country, golf, tennis, and music and speech activities.

36.11(5) *Contests outside Iowa.* Out-of-state contest participation by a member school is limited to regularly scheduled interscholastic activities.

36.11(6) *Promoting interstate contests.* No activity organization is to sponsor interstate contests or competition between individuals, teams or groups.

36.11(7) *Chaperones.* It is the responsibility of all school districts to see that all teams or contestants are properly chaperoned when engaged in interscholastic activities.

36.11(8) *Membership.* Membership in an organization is limited to schools accredited by the department or approved by the department solely for purposes of associate membership in a registered organization.

[**ARC 7657C**, IAB 3/6/24, effective 4/10/24]

281—36.12(280) Eligibility in situations of district organization change. Notwithstanding any other provision of this chapter, in the event eligibility of one or more students is jeopardized or in question as a result of actions beyond their control due to pending reorganization of school districts approved by the voters under Iowa Code chapter 275; action of the district boards of directors under Iowa Code section 274.37; or the joint employment of personnel and sharing of facilities under Iowa Code section 280.15 and the result is a complete discontinuance of the high school grades, or discontinuance of the high school grades pursuant to Iowa Code section 282.7(1), the boards of directors of the school districts involved may, by written agreement, determine the eligibility of students for the time the district of residence does not provide an activity program governed by this chapter. When the respective boards have not provided by written agreement for the eligibility of students whose eligibility is jeopardized or questioned four weeks prior to the normal established time for beginning the activity, students or parents of students involved may request a determination of eligibility from the governing body of the organization involved. All parties directly interested will be given an opportunity to present their views to the governing board.

A determination of eligibility by the governing board will be based upon fairness and the best interests of the students.

In the event that one or more parties involved in the request for determination before the governing board are dissatisfied with the decision of the governing board, an appeal may be made by the dissatisfied party to the director of the department under the provisions of rule 281—36.10(280). A decision of the director in the matter is final.

The above provisions apply insofar as applicable to changes of organization entered into between two or more nonpublic schools.

This rule is intended to implement Iowa Code section 280.13.

[**ARC 7657C**, IAB 3/6/24, effective 4/10/24]

281—36.13(280) Cooperative student participation. Notwithstanding any other provision of this chapter, in the event a member or associate member school does not directly make participation in an interscholastic activity available to its students, the governing board of the member or associate member school may, by formally adopted policy if among its own attendance centers, or by written agreement with the governing board of another member or associate member school, provide for the eligibility of its students in interscholastic activities provided by another member or associate member school. The eligibility of students under a policy, insofar as applicable, or a written agreement is conditioned upon the following:

36.13(1) All terms and conditions of the agreement are in writing;

36.13(2) The attendance boundary of each school that is party to the agreement is contiguous to or contained within the attendance boundary of one of the other schools, unless the activity is not offered at any school contiguous to the party district, or all schools that are contiguous refuse to negotiate an agreement with the party district, in which case the contiguous requirement may be waived by the applicable governing organization. For the purposes of this rule, a nonpublic school member will utilize the attendance boundaries of the public school in which its attendance center is located;

36.13(3) Any interscholastic activity not available to students of the schools participating in the agreement may be included in the agreement. A school's students may be engaged in cooperative activities under the terms of only one agreement.

However, if several schools are in a consortia cooperative agreement for a specific activity, they are not precluded from having a separate agreement with one or more of the same schools for a different activity as long as all schools of the consortia agree to such a separate agreement;

36.13(4) Agreements will be for a minimum of one school year. Amendments may be made to agreements, including allowing additional member schools to join an existing agreement, without necessarily extending the time of existence of the agreement;

36.13(5) All students participating under the agreement are enrolled in one of the schools, are in good standing, and meet all other eligibility requirements of these rules;

36.13(6) A copy of the written agreement between the governing boards of the particular schools involved, and all amendments to the agreement, will be filed with the appropriate governing organization(s) no later than April 30 for the subsequent year, unless exception is granted by the organization for good cause shown. The agreements and amendments are deemed approved unless denied by the governing organization(s) within ten calendar days;

36.13(7) It is the purpose of this rule to allow individual students participation in interscholastic competition in activities not available to them at the school they attend, through local policy or arrangements made between the governing boards of the schools involved, so long as the interscholastic activities of other schools are not substantially prejudiced. Substantial prejudice includes situations where a cooperative effort may result in an unfair domination of an activity or substantial disruption of activity classifications and management. In the event an activity organization determines, after investigation, that an agreement between schools that was developed under the terms of this rule results in substantial prejudice to other schools engaged in the activity, or the terms of the agreement are not in conformity with the purpose and terms of this rule, the activity organization may give timely notice to the schools involved that the local policy or agreement between them is null and void for the purposes of this rule, insofar as cooperative student participation is concerned with a particular activity. Determinations are appealable to the director of education under the applicable terms of rule 281—36.10(280). For notice to be timely, it must be given at least 45 calendar days prior to the beginning of the activity season.

This rule is intended to implement Iowa Code section 280.13.

[**ARC 7657C**, IAB 3/6/24, effective 4/10/24]

These rules are intended to implement Iowa Code sections 256.46, 280.13, and 282.18.

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◊ Two or more ARCs

1 See rule 36.20, last paragraph.

2 See Education, Department of[281], IAB.

CHAPTER 37
EXTRACURRICULAR ATHLETIC ACTIVITY CONFERENCE FOR MEMBER SCHOOLS

Chapter rescission date pursuant to Iowa Code section 17A.7: 4/10/29

281—37.1(280) General. It is the policy of the state of Iowa that each school desiring to be a member of a conference providing extracurricular athletic contests and competitions for students is granted this opportunity. For purposes of this chapter, "member school" means a school or school district granted such status by any corporation, association, or organization registered with the state department of education pursuant to Iowa Code section 280.13 and includes associate members.

37.1(1) *Criteria.* To the maximum extent appropriate, membership shall be with other schools of comparable size and within reasonable geographic proximity.

37.1(2) *Initial responsibility.* The initial authority and responsibility for conference development, membership, and alignment rests with the board of directors of each public school district and the authorities in charge of each nonpublic school.

[**ARC 7658C**, IAB 3/6/24, effective 4/10/24]

281—37.2(280) Complaint to the director, department of education. A member school that believes it has been unfairly excluded or prevented from obtaining membership in an athletic activity conference that would provide the opportunity for participation of its students in athletic events or contests with students from other member schools of comparable size and within reasonable geographic proximity may file a complaint stating this concern with the director of the department of education. The complaint is to set forth in a plain and concise manner the reasons the member school believes the director should intervene in conference alignment decisions and the specific relief requested by the member school. The complaint is to be signed by the president of the board of directors of a public school district or a representative of the officials in charge of an accredited nonpublic school. The director or the director's designee will, within ten days, acknowledge to the member school receipt of the complaint in writing.

[**ARC 7658C**, IAB 3/6/24, effective 4/10/24]

281—37.3(280) Mediation.

37.3(1) The director of the department of education will establish a mediation team consisting of the executive director of the Iowa high school athletic association (hereinafter association) and the executive secretary of the Iowa girls' high school athletic union (hereinafter union) organizations recognized in 281—Chapter 36, or their designees, to meet with the complainant and representatives of other affected member schools. If the complaint involves conference alignment for athletic activities represented by only one of the organizations, only that organization will be involved in the mediation. A copy of all materials filed with the director by the complainant member school will be provided to the mediation team.

37.3(2) The mediation team will meet with administrators or board members of schools potentially affected by changes in conference alignment related to the complaint. Schools will send representatives who have knowledge of the impact of a conference realignment and full authority to respond on behalf of their member school. Factors to be weighed in reaching resolution include school enrollment figures (current and projected), travel distances, comparability of instructional programs, traditional rivalries, number of existing and proposed schools in the conference, and comparability of athletic programs and other school-sponsored programs.

[**ARC 7658C**, IAB 3/6/24, effective 4/10/24]

281—37.4(280) Resolution or recommendation of the mediation team. If mediation results in resolution of the complaint, no further action is necessary on the part of the director and the implementation of the mediation agreement will be left with the boards of directors of school districts and the authorities in charge of nonpublic schools. If no resolution is reached within 50 days of the start of the mediation process, the mediation team will make a recommendation to the director as to the best resolution of the complaint. Copies of this recommendation will be given to all affected member schools. The director will establish a

time for a hearing on this recommendation within 45 days of the receipt of the mediation team's recommendation. The director or director's designee will conduct the hearing, at which time all affected parties will be given the opportunity to provide oral or written testimony or submit other evidence. The director or director's designee reserves the right to establish time limits on appearances at the hearing.
[**ARC 7658C**, IAB 3/6/24, effective 4/10/24]

281—37.5(280) Decision; effective date.

37.5(1) In reaching a decision on the complaint, the director will consider information gathered by the mediation team and its recommendation as well as the written and oral testimony from the hearing. In addition, the director or the director's designee may consult with other individuals, organizations, or conference representatives able to provide input on a decision. If a designee of the director conducts the hearing and review process, the findings of the designee shall be reviewed by the director. A final decision on the complaint will be made by the director. The decision may affect conference realignment or direct other appropriate relief to remedy the complaint. The director will make a decision within 60 days of the hearing, and copies of the decision will be provided to all affected parties.

37.5(2) If the decision results in conference realignment, the date of this change shall be made with deference given to existing contracts and commitments. Alignment changes will be made for four-year periods with automatic review by the director after two years so that further necessary changes take effect at the conclusion of the four-year period, unless agreement exists that implementation of the changes can occur at an earlier date.
[**ARC 7658C**, IAB 3/6/24, effective 4/10/24]

These rules are intended to implement Iowa Code section 280.13.

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CHAPTERS 38 to 40
Reserved

TITLE VII
SPECIAL EDUCATION

CHAPTER 41
SPECIAL EDUCATION

[Prior to 9/7/88, see Public Instruction Department[670] Ch 12]

Chapter rescission date pursuant to Iowa Code section 17A.7: 5/22/29

DIVISION I
PURPOSE AND APPLICABILITY

281—41.1(256B,34CFR300) Purposes. The purposes of this chapter are set forth in 34 CFR Section 300.1.
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.2(256B,34CFR300) Applicability of this chapter. The provisions of this chapter are binding on each public agency in the state that provides special education and related services to children with disabilities, regardless of whether that agency is receiving funds under Part B of the Individuals with Disabilities Education Act (Act).

41.2(1) *General.* The provisions of this chapter apply to all political subdivisions of the state that are involved in the education of children with disabilities, including:

a. The state educational agency (SEA).

b. Local educational agencies (LEAs), area education agencies (AEAs), and public charter schools that are not otherwise included as LEAs or educational service agencies (ESAs) and are not a school of an LEA or ESA.

c. Other state agencies and schools, including but not limited to the department of health and human services and state schools and programs for children who are deaf or hard of hearing or children who are blind or visually impaired.

d. State and local juvenile and adult correctional facilities.

41.2(2) *Private schools and facilities.* Each public agency in the state is responsible for ensuring that the rights and protections under Part B of the Act are given to children with disabilities referred to or placed in private schools and facilities by that public agency; or placed in private schools by their parents under the provisions of rule 281—41.148(256B,34CFR300).

41.2(3) *Age.* This chapter applies to all children requiring special education between birth and the twenty-first birthday and to a maximum allowable age under Iowa Code section 256B.8.
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

DIVISION II
DEFINITIONS

281—41.3(256B,34CFR300) Act. "Act" means the Individuals with Disabilities Education Act as amended through August 14, 2006.

281—41.4(256B,273) Area education agency. "Area education agency" or "AEA" is a political subdivision of the state organized pursuant to Iowa Code chapter 273. An area education agency, depending on context, may be a local educational agency as defined in rule 281—41.28(256B,34CFR300), an educational service agency as defined in rule 281—41.12(256B,34CFR300), or both simultaneously.
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.5(256B,34CFR300) Assistive technology device. "Assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or

customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted or the replacement of such device.

281—41.6(256B,34CFR300) Assistive technology service. "Assistive technology service" means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. The term includes the following:

1. The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;
2. Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
3. Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
4. Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
5. Training or technical assistance for a child with a disability or, if appropriate, that child's family; and
6. Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that child.

281—41.7(256B,34CFR300) Charter school. "Charter school" has the meaning given the term in Section 4310(2) of the Elementary and Secondary Education Act of 1965 as amended through December 10, 2015, 20 U.S.C. 6301 et seq. (ESEA).

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.8(256B,34CFR300) Child with a disability. "Child with a disability" refers to a person under 21 years of age, including a child under 5 years of age, who has a disability in obtaining an education. The term includes an individual who is over 6 and under 16 years of age who, pursuant to the statutes of this state, is required to receive a public education; an individual under 6 or over 16 years of age who, pursuant to the statutes of this state, is entitled to receive a public education; and an individual between the ages of 21 and 24 who, pursuant to the statutes of this state, is entitled to receive special education and related services. In federal usage, this refers to infants, toddlers, children and young adults. In these rules, this term is synonymous with "child requiring special education" and "eligible individual." "Disability in obtaining an education" refers to a condition, identified in accordance with this chapter, which, by reason thereof, causes a child to require special education and support and related services.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.9(256B,34CFR300) Consent.

41.9(1) *Obtaining consent.* "Consent" is obtained when all of the following conditions are satisfied:

a. The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or through another mode of communication;

b. The parent understands and agrees in writing to the carrying out of the activity for which parental consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and

c. The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.

41.9(2) *When revocation of consent is effective.* If a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that occurred after the consent was given and before the consent was revoked).

41.9(3) *Special rule.* If a parent of a child revokes consent, in writing, for the child's receipt of special education services after the child is initially provided special education and related services, the public

agency is not required to amend the child's education records to remove any references to the child's receipt of special education and related services because of the revocation of consent.
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.10(256B,34CFR300) Core academic subjects. "Core academic subjects" means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

281—41.11(256B,34CFR300) Day; business day; school day. "Day" means calendar day unless otherwise indicated as business day or school day.

1. "Business day" means Monday through Friday, except for federal and state holidays, unless holidays are specifically included in the designation of business day, as in paragraph 41.148(4)*"b."*

2. "School day" means any day, including a partial day, when children are in attendance at school for instructional purposes. School day has the same meaning for all children in school, including children with and without disabilities. The length of the school day for an eligible individual shall be the same as that determined by the local educational agency's board of directors for all other individuals, unless a shorter day or longer day is prescribed in the eligible individual's individualized education program.
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.12(256B,34CFR300) Educational service agency. "Educational service agency" means a regional public multiservice agency that is authorized by state law to develop, manage, and provide services or programs to LEAs; and is recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary schools and secondary schools of the state. "Educational service agency" includes any other public institution or agency that has administrative control and direction over a public elementary school or secondary school and includes entities that meet the definition of intermediate educational unit in Section 602(23) of the Act as in effect prior to June 4, 1997.

281—41.13(256B,34CFR300) Elementary school. "Elementary school" means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under state law.

281—41.14(256B,34CFR300) Equipment. "Equipment" means machinery, utilities, and built-in equipment and any necessary enclosures or structures to house the machinery, utilities, or equipment. "Equipment" includes other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published and audio-visual instructional materials; telecommunications, sensory, and other technological aids and devices; and books, periodicals, documents, and other related materials.

281—41.15(256B,34CFR300) Evaluation. "Evaluation" means procedures used in accordance with rules 281—41.304(256B,34CFR300) to 281—41.311(256B,34CFR300) to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs.

281—41.16(256B,34CFR300) Excess costs. "Excess costs" means those costs that are in excess of the average annual per-student expenditure in an LEA during the preceding school year for an elementary school or secondary school student, as may be appropriate, and that must be computed after deducting the following:

41.16(1) *Certain federal funds.* Amounts received under Part B of the Act; under Part A of Title I of the ESEA; and under Part A of Title III of the ESEA; and

41.16(2) *Certain state or local funds.* Any state or local funds expended for programs that would qualify for assistance under subrule 41.16(1), but excluding any amounts for capital outlay or debt service.
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.17(256B,34CFR300) Free appropriate public education. "Free appropriate public education" or "FAPE" means special education and related services that are provided at public expense, under public supervision and direction, and without charge; that meet the standards of the SEA, including the requirements of this chapter; that include an appropriate preschool, elementary school, or secondary school education; and that are provided in conformity with an individualized education program (IEP) that meets the requirements of rules 281—41.320(256B,34CFR300) to 281—41.324(256B,34CFR300).

281—41.18 Reserved.

281—41.19(256B,34CFR300) Homeless children. "Homeless children" has the meaning given the term "homeless children and youths" in Section 725 (42 U.S.C. 11434a) of the McKinney-Vento Homeless Assistance Act as amended through August 14, 2006, 42 U.S.C. 11431 et seq.

281—41.20(256B,34CFR300) Include. "Include" means that the items named are not all of the possible items that are covered, whether like or unlike the ones named.

281—41.21(256B,34CFR300) Indian and Indian tribe. "Indian" means an individual who is a member of an Indian tribe. "Indian tribe" means any federal or state Indian tribe, settlement, band, rancheria, pueblo, colony, or community, including any Alaska native village or regional village corporation as defined in or established under the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 et seq.

281—41.22(256B,34CFR300) Individualized education program. "Individualized education program" or "IEP" means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with rules 281—41.320(256B,34CFR300) to 281—41.324(256B,34CFR300). A single IEP for each eligible individual, which specifies all the special education and related services the eligible individual is to receive, is required.

281—41.23(256B,34CFR300) Individualized education program team. "Individualized education program team" or "IEP team" means a group of individuals described in rule 281—41.321(256B,34CFR300) that is responsible for developing, reviewing, or revising an IEP for a child with a disability.

281—41.24(256B,34CFR300) Individualized family service plan. "Individualized family service plan" or "IFSP" has the meaning given the term in Section 636 of the Act.

281—41.25(256B,34CFR300) Infant or toddler with a disability. "Infant or toddler with a disability" means an individual under three years of age who needs early intervention services either because the individual has a condition, based on informed clinical opinion, known to have a high probability of resulting in later delays in growth and development if early intervention services are not provided; or the individual has a developmental delay, which is a 25 percent delay as measured by appropriate diagnostic instruments and procedures, based on informed clinical opinion, in one or more of the following developmental areas: cognitive development, physical development including vision and hearing, communication development, social or emotional development, or adaptive development.

281—41.26(256B,34CFR300) Institution of higher education. "Institution of higher education" has the meaning given the term in Section 101 of the Higher Education Act of 1965 as amended through August 14, 2006, 20 U.S.C. 1021 et seq. (HEA); and also includes any community college receiving funds from the Secretary of the Interior under the Tribally Controlled Community College or University Assistance Act of 1978, 25 U.S.C. 1801 et seq.
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.27(256B,34CFR300) Limited English proficient. "Limited English proficient" has the meaning given the term "English learner" in Section 8101 of the ESEA.
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.28(256B,34CFR300) Local educational agency.

41.28(1) *General.* "Local educational agency" or "LEA" means a public board of education or other public authority legally constituted within a state for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a state, or for a combination of school districts or counties as are recognized in a state as an administrative agency for its public elementary schools or secondary schools.

41.28(2) *Educational service agencies and other public institutions or agencies.* The term includes an educational service agency, as defined in rule 281—41.12(256B,34CFR300) and any other public institution or agency having administrative control and direction of a public elementary school or secondary school, including a public nonprofit charter school that is established as an LEA under state law.

41.28(3) *BIA-funded schools.* The term includes an elementary school or secondary school funded by the Bureau of Indian Affairs, and not subject to the jurisdiction of any SEA other than the Bureau of Indian Affairs, but only to the extent that the inclusion makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the LEA receiving assistance under the Act with the smallest student population.

281—41.29(256B,34CFR300) Native language.

41.29(1) *General.* "Native language," when used with respect to an individual who is limited English proficient, means the following:

a. The language normally used by that individual or, in the case of a child, the language normally used by the parents of the child; or

b. The language normally used by the child in the home or learning environment; this language shall be considered "native language" in all direct contact with a child, including evaluation of the child.

41.29(2) *Special rule.* For an individual who is deaf or hard of hearing or who is blind or visually impaired, or for an individual with no written language, the mode of communication is that normally used by the individual, such as sign language, braille, or oral communication.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.30(256B,34CFR300) Parent.

41.30(1) *General.* "Parent" means:

a. A biological or adoptive parent of a child;

b. A foster parent, unless state law, regulations, or contractual obligations with a state or local entity prohibit a foster parent from acting as a parent;

c. A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child, but not the state if the child is a ward of the state;

d. An individual acting in the place of a biological or adoptive parent including a grandparent, stepparent, or other relative with whom the child lives or an individual who is legally responsible for the child's welfare; or

e. A surrogate parent who has been appointed in accordance with rule 281— 41.519(256B,34CFR300) or 20 U.S.C. 1439(a)(5).

41.30(2) *Rules of construction and application.* The following rules are to be used to determine whether a party qualifies as a parent:

a. Except as provided in paragraph 41.30(2)*"b,"* the biological or adoptive parent, when attempting to act as the parent under this chapter and when more than one party is qualified to act as a parent under this chapter, must be presumed to be the parent for purposes of this rule unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.

b. If a judicial decree or order identifies a specific person or persons under paragraphs *"a"* to *"d"* of subrule 41.30(1) to act as the parent of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the parent for purposes of this rule.

c. "Parent" does not include a public or private agency involved in the education or care of a child or an employee or contractor with any public or private agency involved in the education or care of the child in that employee's or contractor's official capacity.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.31(256B,34CFR300) Parent training and information center. "Parent training and information center" means a center assisted under Section 671 or 672 of the Act.

281—41.32(256B,34CFR300) Personally identifiable. "Personally identifiable" means information that contains the name of the child, the child's parent, or other family member; the address of the child; a personal identifier, such as the child's social security number or student number; or a list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.

281—41.33(256B,34CFR300) Public agency; nonpublic agency; agency. "Public agency" includes the SEA, LEAs, ESAs, nonprofit public charter schools that are not otherwise included as LEAs or ESAs and are not a school of an LEA or ESA, and any other political subdivisions of the state that are responsible for providing education to children with disabilities. "Nonpublic agency" includes any private organization of whatever form that is responsible for providing education to children with disabilities and that is not a public agency. "Agency" includes public agencies and nonpublic agencies.

281—41.34(256B,34CFR300) Related services.

41.34(1) *General.* "Related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education. "Related services" includes speech-language pathology and audiology services; interpreting services; psychological services; physical and occupational therapy; recreation, including therapeutic recreation; early identification and assessment of disabilities in children; counseling services, including rehabilitation counseling; orientation and mobility services; and medical services for diagnostic or evaluation purposes. "Related services" also includes school health services and school nurse services, social work services in schools, and parent counseling and training.

41.34(2) *Exception; services that apply to children with surgically implanted devices, including cochlear implants.*

a. "Related services" does not include a medical device that is surgically implanted, the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of that device.

b. Nothing in paragraph *"a"* of this subrule shall:

(1) Limit the right of a child with a surgically implanted device (e.g., cochlear implant) to receive related services as listed in subrule 41.34(1) that are determined by the IEP team to be necessary for the child to receive FAPE;

(2) Limit the responsibility of a public agency to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is transported to and from school or is at school; or

(3) Prevent the routine checking of an external component of a surgically implanted device to make sure it is functioning properly, as required in rule 281—41.113(256B,34CFR300).

41.34(3) *Individual related services terms defined.* The terms used in this definition are defined as follows:

a. *"Audiology"* includes:

(1) Identification of children with hearing loss;

(2) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;

(3) Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lipreading), hearing evaluation, and speech conservation;

(4) Creation and administration of programs for prevention of hearing loss;

(5) Counseling and guidance of children, parents, and teachers regarding hearing loss; and

(6) Determination of children's needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.

b. "Counseling services" means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.

c. "Early identification and assessment of disabilities in children" means the implementation of a formal plan for identifying a disability as early as possible in a child's life.

d. "Interpreting services" includes the following:

(1) For children who are deaf or hard of hearing, oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, and transcription services, such as communication access real-time translation (CART), C-Print, and TypeWell; and

(2) For children who are deaf-blind, special interpreting services.

e. "Medical services" means services provided by a licensed physician to determine a child's medically related disability that results in the child's need for special education and related services.

f. "Occupational therapy" means services provided by a qualified occupational therapist, and includes the following:

(1) Improving, developing, or restoring functions impaired or lost through illness, injury, or deprivation;

(2) Improving ability to perform tasks for independent functioning if functions are impaired or lost; and

(3) Preventing, through early intervention, initial or further impairment or loss of function.

g. "Orientation and mobility services" means services provided to children who are blind or visually impaired by qualified personnel to enable those students to attain systematic orientation to and safe movement within their environments in school, home, and community, and includes teaching children the following, as appropriate:

(1) Spatial and environmental concepts and use of information received by the senses (such as sound, temperature and vibrations) to establish, maintain, or regain orientation and line of travel (e.g., using sound at a traffic light to cross the street);

(2) To use the long cane or a service animal to supplement visual travel skills or as a tool for safely negotiating the environment for children with no available travel vision;

(3) To understand and use remaining vision and distance low vision aids; and

(4) Other concepts, techniques, and tools.

h. "Parent counseling and training" means assisting parents in understanding the special needs of their child; providing parents with information about child development; and helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP or IFSP.

i. "Physical therapy" means services provided by a qualified physical therapist.

j. "Psychological services" includes the following:

(1) Administering psychological and educational tests, and other assessment procedures;

(2) Interpreting assessment results;

(3) Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;

(4) Consulting with other staff members in planning school programs to meet the special educational needs of children as indicated by psychological tests, interviews, direct observation, and behavioral evaluations;

(5) Planning and managing a program of psychological services, including psychological counseling for children and parents; and

(6) Assisting in developing positive behavioral intervention strategies.

k. "Recreation" includes the following:

(1) Assessment of leisure function;

(2) Therapeutic recreation services;

(3) Recreation programs in schools and community agencies; and

(4) Leisure education.

l. "Rehabilitation counseling services" means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability. The term also

includes vocational rehabilitation services provided to a student with a disability by vocational rehabilitation programs funded under the Rehabilitation Act of 1973 as amended through August 14, 2006, 29 U.S.C. 701 et seq.

m. *"School health services and school nurse services"* means health services that are designed to enable a child with a disability to receive FAPE as described in the child's IEP. School nurse services are services provided by a qualified school nurse. School health services are services that may be provided by either a qualified school nurse or other qualified person.

n. *"Social work services in schools"* includes the following:

(1) Preparing a social or developmental history concerning a child with a disability;

(2) Group and individual counseling with the child and family;

(3) Working in partnership with parents and others on those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school;

(4) Mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program; and

(5) Assisting in developing positive behavioral intervention strategies.

o. *"Speech-language pathology services"* includes the following:

(1) Identification of children with speech or language impairments;

(2) Diagnosis and appraisal of specific speech or language impairments;

(3) Referral for medical or other professional attention necessary for the habilitation of speech or language impairments;

(4) Provision of speech and language services for the habilitation or prevention of communicative impairments; and

(5) Counseling and guidance of parents, children, and teachers regarding speech and language impairments.

p. *"Transportation"* includes the following:

(1) Travel to and from school and between schools;

(2) Travel in and around school buildings; and

(3) Specialized equipment, such as special or adapted buses, lifts, and ramps, if required to provide special transportation for a child with a disability.

41.34(4) *Rule of construction.* A particular service listed in this rule may also be considered special education under rule 281—41.39(256B,34CFR300), a supplementary aid and service under rule 281—41.42(256B,34CFR300), or a support service under rule 281—41.409(256B,34CFR300).

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.35 Reserved.

281—41.36(256B,34CFR300) Secondary school. "Secondary school" means a nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under state law, except that it does not include any education beyond grade 12.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.37(34CFR300) Services plan. "Services plan" has the meaning given the term in 34 CFR 300.37.

281—41.38(34CFR300) Secretary. "Secretary" means the Secretary of the United States Department of Education.

281—41.39(256B,34CFR300) Special education.

41.39(1) *General.* "Special education" means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including:

a. Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

b. Instruction in physical education.

41.39(2) *Specific services included in special education.* Special education includes each of the following, if the services otherwise meet the requirements of subrule 41.39(1):

a. Any service listed in this chapter, including support services, related services, and supplemental aids and services, that is specially designed instruction under subrule 41.39(1) or state standards or is required to assist an eligible individual in taking advantage of, or responding to, educational programs and opportunities;

b. Travel training; and

c. Vocational education.

41.39(3) *Individual special education terms defined.* The terms in this definition are defined as follows:

a. *"At no cost"* means that all specially designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program. An AEA or LEA may ask, but not require, parents of children with disabilities to use public insurance or benefits or private insurance proceeds to pay for services if they would not incur a financial cost, as described in rule 281—41.154(256B,34CFR300).

b. *"Physical education"* means the development of physical and motor fitness; fundamental motor skills and patterns; and skills in aquatics, dance, and individual and group games and sports, including intramural and lifetime sports; and includes special physical education, adapted physical education, movement education, and motor development.

c. *"Specially designed instruction"* means adapting, as appropriate to the needs of an eligible child under this chapter, the content, methodology, or delivery of instruction:

(1) To address the unique needs of the child that result from the child's disability; and

(2) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children.

d. *"Travel training"* means providing instruction, as appropriate, to children with significant cognitive disabilities, and any other children with disabilities who require this instruction, to enable them to:

(1) Develop an awareness of the environment in which they live; and

(2) Learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community).

e. *"Vocational education"* means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career not requiring a baccalaureate or advanced degree.

281—41.40(34CFR300) State. "State" means each of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

281—41.41(256B,34CFR300) State educational agency. "State educational agency" or "SEA" means the state board of education or other agency or officer primarily responsible for the state supervision of public elementary schools and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the governor or by state law.

281—41.42(256B,34CFR300) Supplementary aids and services. "Supplementary aids and services" means aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with rules 281—41.114(256B,34CFR300) to 281—41.116(256B,34CFR300).

281—41.43(256B,34CFR300) Transition services.

41.43(1) *General.* "Transition services" means a coordinated set of activities for a child with a disability and meets the following description:

a. Is designed to be within a results-oriented process that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to

postschool activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

b. Is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and includes the following:

(1) Instruction;
(2) Related services;
(3) Community experiences;
(4) The development of employment and other post-school adult living objectives; and
(5) If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

41.43(2) *May be special education or a related service.* Transition services for children with disabilities may be special education, if provided as specially designed instruction, or a related service if required to assist a child with a disability to benefit from special education.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.44(34CFR300) Universal design. "Universal design" has the meaning given the term in Section 3 of the Assistive Technology Act of 1998 as amended through August 14, 2006, 29 U.S.C. 3002.

281—41.45(256B,34CFR300) Ward of the state.

41.45(1) *General.* Subject to subrules 41.45(2) and 41.45(3), "ward of the state" means a child who, as determined by the state where the child resides, is:

a. A foster child;
b. In the custody of a public child welfare agency; or
c. A ward of the state.

41.45(2) *Exception.* "Ward of the state" does not include a foster child who has a foster parent who meets the definition of a parent in rule 281—41.30(256B,34CFR300).

41.45(3) *Interpretive note.* "Ward of the state" is a term rarely used in Iowa law. It would be an extremely rare occurrence for a child to be a ward of the state while not being either a foster child or in the custody of a public child welfare agency.

281—41.46 to **41.49** Reserved.

281—41.50(256B,34CFR300) Other definitions associated with identification of eligible individuals. The following terms may be encountered in the identification of children with disabilities.

41.50(1) *Autism.* "Autism" means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before the age of three, which adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. Autism does not apply if a child's educational performance is adversely affected primarily because the child has a behavior disorder, as defined in subrule 41.50(2). A child who manifests the characteristics of autism after the age of three could be identified as having autism if the criteria in the first sentence of this subrule are satisfied. This term includes all conditions described by the term "autism spectrum disorder," which adversely affects a child's educational performance.

41.50(2) *Behavior disorder.* "Behavior disorder" (or emotional disturbance) means any condition that exhibits one or more of the following five characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance.

a. An inability to learn that cannot be explained by intellectual, sensory, or health factors.
b. An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
c. Inappropriate types of behavior or feelings under normal circumstances.
d. A general pervasive mood of unhappiness or depression.
e. A tendency to develop physical symptoms or fears associated with personal or school problems.

41.50(3) *Deaf-blindness.* "Deaf-blindness" means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children who are deaf or hard of hearing or children who are blind or visually impaired.

41.50(4) *Deafness.* "Deafness" means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, and that adversely affects a child's educational performance.

41.50(5) *Hearing impairment.* "Hearing impairment" means an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included under the definition of deafness in subrule 41.50(4).

41.50(6) *Intellectual disability.* "Intellectual disability" means significantly subaverage general intellectual functioning, that exists concurrently with deficits in adaptive behavior and is manifested during the developmental period, and which adversely affects a child's educational performance.

41.50(7) *Multiple disabilities.* "Multiple disabilities" means concomitant impairments, such as intellectual disability-blindness or intellectual disability-orthopedic impairment, the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities does not include deaf-blindness.

41.50(8) *Orthopedic impairment.* "Orthopedic impairment" means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by a congenital anomaly; impairments caused by disease, e.g., poliomyelitis or bone tuberculosis; and impairments from other causes, e.g., cerebral palsy, amputations, and fractures or burns that cause contractures.

41.50(9) *Other health impairment.* "Other health impairment" means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that:

a. Is due to a chronic or acute health problem such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and

b. Adversely affects a child's educational performance.

41.50(10) *Specific learning disability.* "Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

41.50(11) *Speech or language impairment.* "Speech or language impairment" means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance.

41.50(12) *Traumatic brain injury.* "Traumatic brain injury" means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

41.50(13) *Visual impairment.* "Visual impairment," including blindness, means an impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness. Individuals who have a medically diagnosed expectation of visual deterioration in adolescence or early adulthood may qualify for instruction in braille reading and writing.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.51(256B,34CFR300) Other definitions applicable to this chapter. The following additional definitions apply to this chapter.

41.51(1) *Appropriate activities.* "Appropriate activities" means those activities that are consistent with age-relevant abilities or milestones that typically developing children of the same age would be performing or would have achieved.

41.51(2) *Board.* "Board" means the Iowa state board of education.

41.51(3) *Department.* "Department" means the state department of education.

41.51(4) *Director.* "Director" means the director of special education of the AEA.

41.51(5) *Director of education.* "Director of education" means the state director of the department of education.

41.51(6) *Early childhood special education.* "Early childhood special education" or "ECSE" means special education and related services for those individuals below the age of six.

41.51(7) *General curriculum.* "General curriculum" means the curriculum adopted by an LEA or schools within the LEA for all children from preschool through secondary school.

41.51(8) *General education environment.* "General education environment" includes, but is not limited to, the classes, classrooms, services, and nonacademic and extracurricular services and activities made available by an agency to all students. For preschool children who require special education, the general education environment is the environment where appropriate activities occur for children of similar age without disabilities.

41.51(9) *General education interventions.* "General education interventions" means attempts to resolve presenting problems or behaviors of concern in the general education environment prior to conducting a full and individual evaluation as described in rule 281—41.312(256B,34CFR300).

41.51(10) *Head injury.* "Head injury" means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects an individual's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative or brain injuries induced by birth trauma.

41.51(11) *Multicategorical.* "Multicategorical" means special education in which the individuals receiving special education have different types of disabilities.

41.51(12) *School district of the child's residence.* "School district of the child's residence" or "district of residence of the child" is that school district in which the parent of the individual resides, subject to the following:

a. If an eligible individual is physically present ("lives") in a district other than the district of residence of the individual's parent for a primary purpose other than school attendance, then the district of residence of the individual is the district in which the individual resides, and that district becomes responsible for providing and funding the special education and related services.

b. If an eligible individual is physically present ("lives") in a district other than the district of residence of the individual's parent solely for the purpose of school attendance, the district of residence remains that of the parent; therefore, the parent must pay tuition to the receiving district. The district of residence cannot be held responsible for tuition payment.

c. If an individual is physically present ("lives") in an intermediate care facility, residential care facility, or other similar facility, the individual's district of residence is deemed to be that of the individual's parents.

d. "Children living in a foster care facility" are individuals requiring special education who are living in a licensed individual or agency child foster care facility, as defined in Iowa Code section 237.1, or in an unlicensed relative foster care placement. District of residence of an individual living in a foster care facility and financial responsibility for special education and related services are determined pursuant to paragraph 41.907(5)*"a."*

e. "Children living in a treatment facility" are individuals requiring special education who are living in a facility providing residential treatment as defined in Iowa Code section 125.2. District of residence of

an individual living in a treatment facility and financial responsibility for special education and related services are determined pursuant to paragraph 41.907(5)*"b."*

f. "Children placed by the district court" are pupils requiring special education for whom parental rights have been terminated and who have been placed in a facility or home by a district court. Financial responsibility for special education and related services of individuals placed by the district court is determined pursuant to subrule 41.907(6).

41.51(13) *Severely disabled.* "Severely disabled" is an adjective applied to individuals with any severe disability including individuals who are profoundly, multiply disabled.

41.51(14) *Signature.* "Signature" has the meaning given the term in Iowa Code section 4.1(39).

41.51(15) *Systematic progress monitoring.* "Systematic progress monitoring" means a systematic procedure for collecting and displaying an individual's performance over time for the purpose of making educational decisions.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.52 to **41.99** Reserved.

DIVISION III
RULES APPLICABLE TO THE STATE AND TO ALL AGENCIES

281—41.100(256B,34CFR300) Eligibility for assistance. To be eligible for assistance under Part B of the Act for a fiscal year, the state shall submit a plan that provides assurances to the Secretary that the state has in effect policies and procedures to ensure that the state meets the conditions in rules 281—41.101(256B,34CFR300) to 281—41.176(256B).

281—41.101(256B,34CFR300) Free appropriate public education (FAPE).

41.101(1) *General.* A free appropriate public education must be available to all children residing in the state for the time period permitted by Iowa Code chapter 256B, including children with disabilities who have been suspended or expelled from school, as provided for in subrule 41.530(4).

41.101(2) *FAPE for children beginning at the age of three.* The state shall ensure that:

a. The obligation to make FAPE available to each eligible child residing in the state begins no later than the child's third birthday; and

b. An IEP is in effect for the child by that date.

c. If a child's third birthday occurs during the summer, the child's IEP team shall determine the date when services under the IEP will begin.

41.101(3) *Children advancing from grade to grade.* FAPE shall be available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade and is advancing from grade to grade. The determination that a child described in the first sentence of this subrule is eligible under this chapter must be made on an individual basis by the group responsible within the child's LEA for making eligibility determinations.

281—41.102(256B,34CFR300) Limitation—exceptions to FAPE for certain ages.

41.102(1) *Exceptions.* The obligation to make FAPE available to all children with disabilities does not apply with respect to the following:

a. Children over the age provided in Iowa Code chapter 256B, unless otherwise provided in this rule.

b. Certain children incarcerated in adult prisons.

(1) General. A child aged 18 to 21 who, in the last educational placement prior to incarceration in an adult correctional facility:

1. Was not actually identified as being a child with a disability under this chapter; and
2. Did not have an IEP under Part B of the Act.

(2) Inapplicability of exception. The exception in subparagraph 41.102(1)*"b"*(1) does not apply to a child with disabilities, aged 18 to 21, who:

1. Had been identified as a child with a disability under this chapter and had received services in accordance with an IEP, but who left school prior to incarceration; or

2. Did not have an IEP in the child's last educational setting, but who had actually been identified as a child with a disability under this chapter.

c. Graduates with a regular high school diploma.

(1) General. Children with disabilities who have graduated from high school with a regular high school diploma.

(2) Inapplicability of exception. The exception in subparagraph 41.102(1)*"c"*(1) does not apply to children who have graduated from high school but have not been awarded a regular high school diploma.

(3) Graduation is a change in placement. Graduation from high school with a regular high school diploma constitutes a change in placement requiring written prior notice in accordance with rule 281—41.503(256B,34CFR300).

(4) Rule of construction. As used in subparagraphs 41.102(1)*"c"*(1) to (3), the term "regular high school diploma" means the standard high school diploma awarded to the preponderance of students in the state that is fully aligned with state standards, or a higher diploma, except that a regular high school diploma shall not be aligned to the alternate academic achievement standards described in Section 1111(b)(1)(E) of the ESEA. A regular high school diploma does not include a recognized equivalent of a diploma, such as a general equivalency diploma, certificate of completion, certificate of attendance, or similar lesser credential.

d. Reserved.

e. Eligibility beyond period specified in Iowa Code chapter 256B. An agency may continue the special education and related services of an eligible individual beyond the time period specified in the Iowa Code if the person had an accident or prolonged illness that resulted in delays in the initiation of or in the interruption of that individual's special education program. The AEA director of special education must request approval from the department, which may be granted for up to the individual's twenty-fourth birthday.

41.102(2) *Documents relating to exceptions.* The state must ensure that the information it has provided to the Secretary regarding the exceptions in subrule 41.102(1) is current and accurate.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.103(256B,34CFR300) FAPE—methods and payments.

41.103(1) *All means available to meet Part B requirements.* The state may use whatever state, local, federal, and private sources of support that are available in the state to meet the requirements of Part B of the Act.

41.103(2) *Third-party obligations not eliminated.* Nothing in this chapter relieves an insurer or similar third party from an otherwise valid obligation to provide or to pay for services provided to a child with a disability.

41.103(3) *No delay in implementing an IEP.* Consistent with rule 281—41.323(256B,34CFR300), there shall be no delay in implementing an eligible individual's IEP, including any case in which the payment source for providing or paying for special education and related services to the child is being determined.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.104(256B,34CFR300) Residential placement. If placement in a public or private residential program is necessary to provide special education and related services to an eligible individual, the program, including nonmedical care and room and board, must be at no cost to the parents of the child.

281—41.105(256B,34CFR300) Assistive technology.

41.105(1) *General.* Each public agency must ensure that assistive technology devices or assistive technology services, or both, as those terms are defined in rules 281—41.5(256B,34CFR300) and 281—41.6(256B,34CFR300), respectively, are made available to a child with a disability if required as a part of the child's:

a. Special education under rule 281—41.39(256B,34CFR300);

b. Related services under rule 281—41.34(256B,34CFR300); or

c. Supplementary aids and services under rule 281—41.42(256B,34CFR300) and paragraph 41.114(2)*"b."*

41.105(2) *Use of assistive technology devices at home or in other settings.* On a case-by-case basis, the use of school-purchased assistive technology devices in a child's home or in other settings is required if the child's IEP team determines that the child needs access to those devices in order to receive FAPE.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.106(256B,34CFR300) Extended school year services.

41.106(1) *General.* Each public agency must ensure that extended school year services are available as necessary to provide FAPE.

a. Extended school year services must be provided only if a child's IEP team determines, on an individual basis, in accordance with rules 281—41.320(256B,34CFR300) to 281—41.324(256B,34CFR300), that the services are necessary for the provision of FAPE to the child.

b. In implementing the requirements of this rule, a public agency may not limit extended school year services to particular categories of disability or unilaterally limit the type, amount, or duration of those services.

41.106(2) *Definition.* As used in this rule, the term "extended school year services" means special education and related services that meet the standards of the SEA and are provided to a child with a disability beyond the normal school year of the public agency, in accordance with the child's IEP and at no cost to the parents of the child.

281—41.107(256B,34CFR300) Nonacademic services.

41.107(1) *General.* Each public agency must take steps, including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities.

41.107(2) *Definition.* Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the public agency and assistance in making outside employment available.

281—41.108(256B,34CFR300) Physical education. All public agencies in the state shall comply with the following:

41.108(1) *General.* Physical education services, specially designed if necessary, must be made available to every child with a disability receiving FAPE, unless the public agency enrolls children without disabilities and does not provide physical education to children without disabilities in the same grades.

41.108(2) *Regular physical education.* Each child with a disability must be afforded the opportunity to participate in the regular physical education program available to nondisabled children unless the child is enrolled full-time in a separate facility or the child needs specially designed physical education, as prescribed in the child's IEP.

41.108(3) *Special physical education.* If specially designed physical education is prescribed in a child's IEP, the public agency responsible for the education of that child must provide the services directly or make arrangements for those services to be provided through other public or private programs.

41.108(4) *Education in separate facilities.* The public agency responsible for the education of a child with a disability who is enrolled in a separate facility must ensure that the child receives appropriate physical education services in compliance with this rule.

281—41.109(256B,34CFR300) Full educational opportunity goal (FEOG). Each public agency shall ensure the provision of full educational opportunity to children requiring special education. Each public agency shall have in effect policies and procedures to demonstrate that the agency has established a goal of

providing full educational opportunity to all children with disabilities, aged birth to 21, and a detailed timetable for accomplishing that goal.

281—41.110(256B,34CFR300) Program options. Each public agency shall take steps to ensure that its children with disabilities have available to them the variety of educational programs and services available to nondisabled children in the area served by the agency, including art, music, industrial arts, consumer and homemaking education, and vocational education.

281—41.111(256B,34CFR300) Child find.

41.111(1) *General.* All children with disabilities residing in the state, including children with disabilities who are homeless children or are wards of the state and children with disabilities who attend private schools, regardless of the severity of their disability, and who are in need of special education and related services, must be identified, located, and evaluated; and a practical method must be developed and implemented to determine which children are currently receiving needed special education and related services.

41.111(2) *High-quality general education instruction; general education interventions.*

a. As a component of efficient and effective, high-quality general education instruction, it shall be the responsibility of the general education program of each LEA to provide additional support and assistance to all students who may need such additional support and assistance to attain the educational standards of the LEA applicable to all children. Receipt of such additional support and assistance, when considered alone, does not create a suspicion that a child is an eligible individual under this chapter. Activities under this paragraph shall be provided by general education personnel, with occasional or incidental assistance from special education instructional and support personnel.

b. General education interventions involving activities described in rule 281— 41.312(256B,34CFR300) are a recognized component of an AEA's child find policy pursuant to the policies set forth in subrule 41.407(1) and the procedures set forth in subrule 41.407(2).

41.111(3) *Other children in child find.* Child find also must include the following:

a. A child who is suspected of being a child with a disability and in need of special education, even though the child is advancing from grade to grade; and

b. Highly mobile children, including migrant children.

41.111(4) *Classification based on disability not required.* Nothing in the Act requires that children be classified by their disability so long as each child who has a disability that is listed in 34 CFR Section 300.8 and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under Part B of the Act.

41.111(5) *Evaluation required when disability is suspected.* At the point when a public agency suspects a child is a child with a disability under this chapter, the public agency must seek parental consent for an initial evaluation of that child, pursuant to subrule 41.300(1).

41.111(6) *Rule of construction—suspicion of a disability.* As a general rule, a public agency suspects a child is a child with a disability when the public agency is aware of facts and circumstances that, when considered as a whole, would cause a reasonably prudent public agency to believe that the child's performance might be explained because the child is an eligible individual under this chapter.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.112(256B,34CFR300) Individualized education programs (IEPs). An IEP, or an IFSP that meets the requirements of Section 636(d) of the Act (for eligible individuals aged birth to three), is developed, reviewed, and revised for each child with a disability in accordance with rules 281—41.320(256B,34CFR300) to 281—41.324(256B,34CFR300), except as provided in subparagraph 41.300(2)*"d"*(2).

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.113(256B,34CFR300) Routine checking of hearing aids and external components of surgically implanted medical devices.

41.113(1) *Hearing aids.* Each public agency must ensure that hearing aids worn in school by children who are deaf or hard of hearing are functioning properly.

41.113(2) *External components of surgically implanted medical devices.*

a. Subject to paragraph 41.113(2)*"b,"* each public agency must ensure that the external components of surgically implanted medical devices are functioning properly.

b. For a child with a surgically implanted medical device who is receiving special education and related services under this chapter, a public agency is not responsible for the postsurgical maintenance, programming, or replacement of the medical device that has been surgically implanted or of an external component of the surgically implanted medical device.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.114(256B,34CFR300) Least restrictive environment (LRE).

41.114(1) *General.* Except as provided in paragraph 41.324(4)*"a"* regarding children with disabilities in adult prisons, each public agency in the state shall have policies and procedures in place to meet the LRE requirements of this rule and rules 281—41.115(256B,34CFR300) to 281—41.120(256B,34CFR300).

41.114(2) *Public agency assurances.* Each public agency must ensure and maintain adequate documentation that:

a. To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and

b. Special classes, separate schooling, or other removal of children with disabilities from the general education environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

41.114(3) *State funding mechanism.* A state funding mechanism must not result in placements that violate the requirements of this rule; and the state must not use a funding mechanism by which funds are distributed on the basis of the type of setting in which a child is served or which will result in the failure to provide a child with a disability FAPE according to the unique needs of the child, as described in the child's IEP.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.115(256B,34CFR300) Continuum of alternative services and placements.

41.115(1) *General.* Each public agency must ensure that a continuum of alternative services and placements is available to meet the needs of children with disabilities for special education and related services.

41.115(2) *Requirements.* The continuum required in subrule 41.115(1) must meet the following requirements:

a. Include the alternative placements listed in the definition of special education under rule 281—41.39(256B,34CFR300) (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and

b. Make provision for supplementary services, such as resource room or itinerant instruction, to be provided in conjunction with regular class placement.

281—41.116(256B,34CFR300) Placements.

41.116(1) *General.* In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must ensure the following:

a. The placement decision shall be made:

(1) By a group of persons, including the parents and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and

(2) In conformity with the LRE provisions of this chapter, including rules 281—41.114(256B,34CFR300) to 281—41.118(256B,34CFR300);

b. The child's placement shall be:

(1) Determined at least annually;

(2) Based on the child's IEP; and

(3) Located as close as possible to the child's home;

c. Unless the IEP of a child with a disability requires some other arrangement, the child shall be educated in the school that he or she would attend if nondisabled;

d. In selecting the LRE, the agency shall consider any potential harmful effect on the child or on the quality of services that he or she needs; and

e. A child with a disability shall not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.

41.116(2) *Special rule: Iowa Code section 282.9.* For eligible individuals subject to Iowa Code section 282.9, any decision of educational setting for such eligible individuals shall be made in accordance with this rule.

41.116(3) *Special rule: disciplinary placements.* If a child is placed in an interim alternative educational setting pursuant to rules 281—41.530(256B,34CFR300) and 281—41.531(256B,34CFR300), that setting shall be determined by the IEP team.

41.116(4) *Special considerations.* The team establishing the eligible individual's placement must answer the following questions.

a. Questions concerning least restrictive environment. When developing an eligible individual's IEP and placement, the team shall consider the following questions, as well as any other factor appropriate under the circumstances, regarding the provision of special education and related services:

(1) What accommodations, modifications and adaptations does the individual require to be successful in a general education environment?

(2) Why is it not possible for these accommodations, modifications and adaptations to be provided within the general education environment?

(3) What supports are needed to assist the teacher and other personnel in providing these accommodations, modifications and adaptations?

(4) How will receipt of special education services and activities in the general education environment impact this individual?

(5) How will provision of special education services and activities in the general education environment impact other students?

b. Additional questions concerning special school placement. When some or all of an eligible individual's special education is to be provided in a special school, the individual's IEP, or an associated or attached document, shall include specific answers to the following additional four questions:

(1) What are the reasons the eligible individual cannot be provided an education program in an integrated school setting?

(2) What supplementary aids and supports are needed to support the eligible individual in the special education program?

(3) Why is it not possible for these aids and supports to be provided in an integrated setting?

(4) What is the continuum of placements and services available for the eligible individual?

41.116(5) *Out-of-state placements.* When special education and related services appropriate to an eligible individual's needs are not available within the state, or when appropriate special education and related services in an adjoining state are nearer than the appropriate special education and related services in Iowa, the director may certify an eligible individual for appropriate special education and related services outside the state in accordance with Iowa Code section 273.3 when it has been determined by the department that the special education and related services meet standards set forth in these rules.

41.116(6) *Department approval for out-of-state placement.* Contracts may be negotiated with out-of-state agencies, in accordance with Iowa Code section 273.3(5), with department approval. The department uses the following procedures to determine if an out-of-state agency meets the rules of the board:

a. When requested to determine an agency's approval status, the department contacts the appropriate state education agency to determine if that state's rules are comparable to those of the board and whether the specified out-of-state agency meets those rules.

b. If the appropriate state education agency's rules are not comparable, the department will contact the out-of-state agency to ascertain if its special education complies with the rules of the board.

41.116(7) *Trial placements.* Prior to transfer from a special education program or service, an eligible individual may be provided a trial placement in the general education setting of not more than 45 school days. A trial placement shall be incorporated into this individual's IEP.

281—41.117(256B,34CFR300) Nonacademic settings. In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in rule 281—41.107(256B,34CFR300), each public agency must ensure that each child with a disability participates with nondisabled children in the extracurricular services and activities to the maximum extent appropriate to the needs of that child. The public agency must ensure that each child with a disability has the supplementary aids and services determined by the child's IEP team to be appropriate and necessary for the child to participate in nonacademic settings.

281—41.118(256B,34CFR300) Children in public or private institutions. Except as provided in rule 281—41.149(256B,34CFR300) regarding agency responsibility for general supervision of some individuals in adult prisons, the department must ensure that rule 281—41.114(256B,34CFR300) is effectively implemented, including, if necessary, making arrangements with public and private institutions such as a memorandum of agreement or special implementation procedures.
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.119(256B,34CFR300) Technical assistance and training activities. The state shall carry out activities to ensure that teachers and administrators in all public agencies are fully informed about their responsibilities for implementing rule 281—41.114(256B,34CFR300) and are provided with technical assistance and training necessary to assist them in this effort. If a public agency is having difficulty in locating an appropriate placement for an eligible individual, the public agency may contact the department for potential assistance.

281—41.120(256B,34CFR300) Monitoring activities. The state shall carry out activities to ensure that rule 281—41.114(256B,34CFR300) is implemented by each public agency. If there is evidence that a public agency makes placements that are inconsistent with rule 281—41.114(256B,34CFR300), the department must review the public agency's justification for its actions and assist in planning and implementing any necessary corrective action. Failure of the public agency to implement any necessary corrective action may result in adverse determinations under rule 281—41.603(256B,34CFR300) or any other available enforcement action.

281—41.121(256B,34CFR300) Procedural safeguards. Each public agency in the state shall meet the requirements of rules 281—41.500(256B,34CFR300) to 281—41.536(256B,34CFR300), and children with disabilities and their parents must be afforded the procedural safeguards identified in those rules.

281—41.122(256B,34CFR300) Evaluation. Children with disabilities must be evaluated in accordance with rules 281—41.300(256B,34CFR300) to 281—41.313(256B,34CFR300), and each AEA shall develop and use procedures to implement those rules.

281—41.123(256B,34CFR300) Confidentiality of personally identifiable information. All public agencies in the state shall comply with rules 281—41.610(256B,34CFR300) to 281—41.626(256B,34CFR300) related to protecting the confidentiality of any personally identifiable information collected, used, or maintained under Part B of the Act.

281—41.124(256B,34CFR300) Transition of children from the Part C program to preschool programs. Each public agency shall comply with the state's policies concerning the transition of infants and toddlers from programs under Part C to programs under Part B of the Act and shall ensure the following regarding such transition:

41.124(1) *Smooth transition.* Children participating in early intervention programs assisted under Part C of the Act, and who will participate in preschool programs assisted under Part B of the Act, experience a

smooth and effective transition to those preschool programs in a manner consistent with Section 637(a)(9) of the Act;

41.124(2) *IEP developed.* By the third birthday of a child described in subrule 41.124(1), an IEP has been developed and is being implemented for the child consistent with subrule 41.101(2); and

41.124(3) *Participating agencies.* Each affected LEA will participate in transition planning conferences arranged by the designated lead agency under Section 635(a)(10) of the Act.

281—41.125 to **41.128** Reserved.

281—41.129(256B,34CFR300) Responsibility regarding children in private schools. Each public agency shall meet the private school requirements in rules 281—41.130(256,256B,34CFR300) to 281—41.148(256B,34CFR300).

281—41.130(256,256B,34CFR300) Definition of parentally placed private school children with disabilities. "Parentally placed private school children with disabilities" means children with disabilities enrolled by their parents in accredited nonpublic, including religious, schools or facilities that meet the definition of elementary school in rule 281—41.13(256B,34CFR300) or secondary school in rule 281—41.36(256B,34CFR300), other than children with disabilities covered under rules 281—41.145(256B,34CFR300) to 281—41.147(256B,34CFR300).

281—41.131(256,256B,34CFR300) Child find for parentally placed private school children with disabilities.

41.131(1) *General.* Each AEA must locate, identify, and evaluate all children with disabilities who are enrolled by their parents in accredited nonpublic, including religious, elementary schools and secondary schools located in the school district served by the AEA, in accordance with subrules 41.131(2) to 41.131(5) and rules 281—41.111(256B,34CFR300) and 281—41.201(256B,34CFR300).

41.131(2) *Child find design.* The child find process must be designed to ensure:

a. The equitable participation of parentally placed private school children; and

b. An accurate count of those children.

41.131(3) *Activities.* In carrying out the requirements of this rule, the AEA or, if applicable, the SEA must undertake activities similar to the activities undertaken for the agency's public school children.

41.131(4) *Cost.* The cost of carrying out the child find requirements in this rule, including individual evaluations, may not be considered in determining whether an AEA has met its obligation under rule 281—41.133(256,256B,34CFR300).

41.131(5) *Completion period.* The child find process must be completed in a time period comparable to that for students attending public schools in the AEA consistent with rule 281—41.301(256B,34CFR300).

41.131(6) *Out-of-state children.* Each AEA in which accredited nonpublic, including religious, elementary schools and secondary schools are located must, in carrying out the child find requirements in this rule, include parentally placed private school children who reside in a state other than the state in which the accredited nonpublic schools that they attend are located.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.132(256,256B,34CFR300) Provision of services for parentally placed private school children with disabilities: basic requirement.

41.132(1) *General.* To the extent consistent with the number and location of children with disabilities who are enrolled by their parents in accredited nonpublic, including religious, elementary schools and secondary schools located in the area served by the AEA, provision is made for the participation of those children in the program assisted or carried out under Part B of the Act by providing them with special education and related services, including direct services determined in accordance with rule 281—41.137(256,256B,34CFR300), unless the Secretary has arranged for services to those children under the bypass provisions in 34 CFR Sections 300.190 to 300.198.

41.132(2) *IEP for parentally placed private school children with disabilities.* In accordance with subrule 41.132(1) and rules 281—41.137(256,256B,34CFR300) to 281—41.139(256,256B,34CFR300), as well as Iowa Code section 256.12, an IEP must be developed and implemented for each private school child with a disability who has been designated by the AEA in which the private school is located to receive special education and related services under this chapter.

41.132(3) *Record keeping.* Each AEA must maintain in its records, and provide to the state, the following information related to parentally placed private school children covered under rules 281—41.130(256,256B,34CFR300) to 281—41.144(256,256B,34CFR300):

a. The number of children evaluated;

b. The number of children determined to be children with disabilities; and

c. The number of children served.

281—41.133(256,256B,34CFR300) Expenditures.

41.133(1) *Formula.* To meet the requirement of subrule 41.132(1), each AEA must spend the following on providing special education and related services, including direct services, to parentally placed private school children with disabilities:

a. For children aged 3 to 21, an amount that is the same proportion of the AEA's total subgrant under Section 611(f) of the Act as the number of private school children with disabilities aged 3 to 21 who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the AEA, is to the total number of children with disabilities in its jurisdiction aged 3 to 21.

b. Additional calculation for children aged 3 through 5.

(1) For children aged 3 through 5, an amount that is the same proportion of the AEA's total subgrant under Section 619(g) of the Act as the number of parentally placed private school children with disabilities aged 3 through 5 who are enrolled by their parents in a private, including religious, elementary school located in the school district served by the AEA, is to the total number of children with disabilities in its jurisdiction aged 3 through 5.

(2) As described in subparagraph 41.133(1)*"b"*(1), children aged 3 through 5 are considered to be parentally placed private school children with disabilities enrolled by their parents in private, including religious, elementary schools, if and only if they are enrolled in a private school that meets the definition of elementary school in rule 281—41.13(256B,34CFR300).

c. If an AEA has not expended for equitable services all of the funds described in paragraphs 41.133(1)*"a"* and *"b"* by the end of the fiscal year for which Congress appropriated the funds, the AEA must obligate the remaining funds for special education and related services, including direct services, to parentally placed private school children with disabilities during a carry-over period of one additional year.

41.133(2) *Calculating proportionate amount.* The state shall calculate each AEA's proportionate share from data provided by each AEA after each AEA has completed the consultation described in rule 281—41.134(256,256B,34CFR300) and the child count described in rule 281—41.131(256,256B,34CFR300) and subrule 41.133(3).

41.133(3) *Annual count of the number of parentally placed private school children with disabilities.*

a. Each AEA must:

(1) After timely and meaningful consultation with representatives of parentally placed private school children with disabilities, consistent with rule 281—41.134(256,256B,34CFR300), determine the number of parentally placed private school children with disabilities attending private schools located in the AEA; and

(2) Ensure that the count is conducted on any date between October 1 and December 1, inclusive, of each year.

b. The count must be used to determine the amount that the AEA must spend on providing special education and related services to parentally placed private school children with disabilities in the next subsequent fiscal year.

41.133(4) *Supplement, not supplant.* State and local funds may supplement, and in no case supplant, the proportionate amount of federal funds required to be expended for parentally placed private school children with disabilities under this chapter.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.134(256,256B,34CFR300) Consultation. To ensure timely and meaningful consultation, an AEA or, if appropriate, an SEA must consult with private school representatives and representatives of parents of parentally placed private school children with disabilities during the design and development of special education and related services for the children regarding the following:

41.134(1) *Child find.* The child find process shall determine:

a. How parentally placed private school children suspected of having a disability can participate equitably; and

b. How parents, teachers, and private school officials will be informed of the process.

41.134(2) *Proportionate share of funds.* An explanation that the proportionate share shall be calculated by the state based on data submitted by the AEA, consistent with rule 281—41.133(256,256B,34CFR300).

41.134(3) *Consultation process.* The consultation process among the AEA, private school officials, and representatives of parents of parentally placed private school children with disabilities, including how the process will operate throughout the school year to ensure that parentally placed children with disabilities identified through the child find process can meaningfully participate in special education and related services.

41.134(4) *Provision of special education and related services.* How, where, and by whom special education and related services funded by Part B of the Act under rules 281—41.130(256,256B,34CFR300) to 281—41.147(256B,34CFR300) will be provided for parentally placed private school children with disabilities, including a discussion of the following:

a. The types of services, including direct services and alternate service delivery mechanisms;

b. How special education and related services will be apportioned if funds are insufficient to serve all parentally placed private school children;

c. How and when decisions regarding paragraphs 41.134(4)*"a"* and *"b"* will be made;

d. That the consultation process concerns only funds under Part B of the Act, and does not concern special education and related services provided under Iowa Code section 256.12. The consultation process may, but is not required to, include discussions of special education and related services provided under Iowa Code section 256.12.

41.134(5) *Written explanation by AEA regarding services.* How, if the AEA disagrees with the views of the private school officials on the provision of services or the types of services, whether provided directly or through a contract, the AEA will provide to the private school officials a written explanation of the reasons why the AEA chose not to provide services directly or through a contract.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.135(256,256B,34CFR300) Written affirmation. When timely and meaningful consultation, as required by rule 281—41.134(256,256B,34CFR300), has occurred, the AEA must obtain a written affirmation signed by the representatives of participating private schools. If the representatives do not provide the affirmation within a reasonable period of time, the AEA must forward the documentation of the consultation process to the department.

281—41.136(256,256B,34CFR300) Compliance.

41.136(1) *General.* A private school official has the right to submit a complaint to the department that the AEA:

a. Did not engage in consultation that was meaningful and timely; or

b. Did not give due consideration to the views of the private school official.

41.136(2) *Procedure.*

a. If the private school official wishes to submit a complaint, the official must provide to the department the basis of the noncompliance by the AEA with the applicable private school provisions in this chapter; and

b. The AEA must forward the appropriate documentation to the department.

c. If the private school official is dissatisfied with the decision of the department, the official may submit a complaint to the Secretary by providing the information on noncompliance described in paragraph 41.136(2)*"a."* The department must forward the appropriate documentation to the Secretary.
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.137(256,256B,34CFR300) Equitable services determined.

41.137(1) *Nature and scope of individual right to special education and related services.* Each parentally placed private school child with a disability has a right to receive any special education or related services permitted by Iowa Code section 256.12. Funding for and accounting for such services shall be determined by the provisions of Part B of the Act, this chapter, and Iowa Code section 256.12.

41.137(2) *Decisions.* Decisions about the services that will be provided to parentally placed private school children with disabilities funded by Part B of the Act under rules 281—41.130(256,256B,34CFR300) to 281—41.144(256,256B,34CFR300) must be made in accordance with subrules 41.134(4) and 41.137(3). The AEA must make the final decisions with respect to the services to be provided to eligible parentally placed private school children with disabilities and funded by Part B of the Act.

41.137(3) *IEP for parentally placed private school children with disabilities.* The AEA or LEA must offer to develop an IEP for each child with a disability who is enrolled in a religious or other private school by the child's parents and develop an IEP if one is requested, pursuant to this chapter. An IEP is offered and prepared pursuant to Iowa Code section 256.12. There is no need to prepare a services plan (see rule 281—41.37(34CFR300)) for such a student. A parent of a child with a disability who is voluntarily enrolled in a private school may not reject an IEP and demand a services plan instead. At any IEP team meeting for a parentally placed private school student with a disability, the AEA or LEA must ensure that a representative of the private school attends each meeting. If the representative cannot attend, the AEA or LEA shall use other methods to ensure participation by the private school, including individual or conference telephone calls.

281—41.138(256,256B,34CFR300) Equitable services provided.

41.138(1) *General.* The services provided to parentally placed private school children with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools, except that private elementary school and secondary school teachers who are providing equitable services to parentally placed private school children with disabilities do not have to meet the special education teacher requirements of rule 281—41.156(256B,34CFR300). Parentally placed private school children with disabilities receive the special education and related services required by Iowa Code section 256.12, although the source of the funding for such education and services may be different than funding for education and services for children with disabilities in public schools.

41.138(2) *Services provided in accordance with an IEP.* Each parentally placed private school child with a disability who will receive special education and related services pursuant to the Act and Iowa Code section 256.12 must have an IEP developed in accordance with this chapter.

41.138(3) *Provision of equitable services.* The provision of services pursuant to this rule and rules 281—41.139(256,256B,34CFR300) to 281—41.143(256,256B,34CFR300) must be provided by employees of a public agency or through contract by the public agency with an individual, association, agency, organization, or other entity.

41.138(4) *Secular, neutral and nonideological.* Special education and related services, including materials and equipment, provided to parentally placed private school children with disabilities, including children attending religious schools, must be secular, neutral, and nonideological.
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.139(256,256B,34CFR300) Location of services and transportation.

41.139(1) *Services on private school premises.* Services to parentally placed private school children with disabilities may be provided on the premises of private, including religious, schools to the extent consistent with Iowa Code section 256.12.

41.139(2) *Transportation.*

a. General.

(1) If necessary for the child to benefit from or participate in the services provided under this chapter, a parentally placed private school child with a disability must be provided transportation from the child's school or the child's home to a site other than the private school and from the service site to the private school or to the child's home, depending on the timing of the services.

(2) AEAs or LEAs are not required to provide transportation from the child's home to the private school.

b. Cost of transportation. The cost of the transportation described in subparagraph 41.139(2)*"a"*(1) may be included in calculating whether the AEA has met the requirement of rule 281—41.133(256,256B,34CFR300).

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.140(256,256B,34CFR300) Due process complaints and state complaints.

41.140(1) *When due process complaints available.* Pursuant to Iowa Code section 256.12, parents of children with disabilities who are voluntarily placed in accredited nonpublic schools may file a due process complaint as provided in rules 281—41.504(256B,34CFR300) to 281—41.519(256B,34CFR300), except as provided in subrule 41.140(2).

41.140(2) *When due process complaints unavailable.* The procedures in rules 281—41.504(256B,34CFR300) to 281—41.519(256B,34CFR300) may not be used to challenge the particular amount of services funded by Part B that a parentally placed private school child with disabilities receives unless the allegation is made that the child was denied FAPE under Iowa Code section 256.12, but a parent of a child with a disability may file a due process complaint alleging the AEA failed to comply with the child find requirements of rule 281—41.131(256,256B,34CFR300). A private school official may not file a due process complaint under this chapter.

41.140(3) *State complaints.* Any complaint that an SEA or AEA has failed to meet the requirements in rules 281—41.132(256,256B,34CFR300) to 281—41.135(256,256B,34CFR300) and 281—41.137(256,256B,34CFR300) to 281—41.144(256,256B,34CFR300) must be filed in accordance with the procedures described in rules 281—41.151(256B,34CFR300) to 281—41.153(256B,34CFR300). A complaint filed by a private school official under subrule 41.136(1) must be filed with the SEA in accordance with the procedures in subrule 41.136(2).

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.141(256,256B,34CFR300) Requirement that funds not benefit a private school.

41.141(1) *Funds may not benefit private school.* An AEA may not use funds provided under Section 611 or 619 of the Act to finance the existing level of instruction in a private school or to otherwise benefit the private school.

41.141(2) *Funds only for special education.* The AEA must use funds provided under Part B of the Act to meet the special education and related services needs of parentally placed private school children with disabilities, but not for meeting either of the following needs:

a. The needs of a private school; or

b. The general needs of the students enrolled in the private school.

281—41.142(256,256B,34CFR300) Use of personnel.

41.142(1) *Use of public school personnel.* An AEA may use funds available under Sections 611 and 619 of the Act to make public school personnel available in other than public facilities based on the following two criteria:

a. If and to the extent necessary to provide services under rules 281—41.130(256,256B,34CFR300) to 281—41.144(256,256B,34CFR300) for parentally placed private school children with disabilities; and

b. If those services are not normally provided by the private school.

41.142(2) *Use of private school personnel.* An AEA may use funds available under Sections 611 and 619 of the Act to pay for the services of an employee of a private school to provide services under rules 281—41.130(256,256B,34CFR300) to 281—41.144(256,256B,34CFR300) if the following two conditions are met:

a. The employee performs the services outside of the employee's regular hours of duty; and
b. The employee performs the services under public supervision and control.

281—41.143(256,256B,34CFR300) Separate classes prohibited. An AEA may not use funds available under Section 611 or 619 of the Act for classes that are organized separately on the basis of school enrollment or religion of the children if the classes are at the same site; and the classes include both children enrolled in public schools and children enrolled in private schools.

281—41.144(256,256B,34CFR300) Property, equipment, and supplies.

41.144(1) *General.* A public agency must control and administer the funds used to provide special education and related services under rules 281—41.137(256,256B,34CFR300) to 281—41.139(256,256B,34CFR300) and hold title to and administer materials, equipment, and property purchased with those funds for the uses and purposes provided in the Act.

41.144(2) *Equipment and supplies on private school premises only while needed.* The public agency may place equipment and supplies in a private school for the period of time needed for the Part B program.

41.144(3) *Public agency to supervise placement and use of equipment and supplies.* The public agency must ensure that the equipment and supplies placed in a private school are used only for Part B purposes and can be removed from the private school without remodeling the private school facility.

41.144(4) *Duty to remove equipment and supplies.* The public agency must remove equipment and supplies from a private school if the equipment and supplies are no longer needed for Part B purposes or removal is necessary to avoid unauthorized use of the equipment and supplies for other than Part B purposes.

41.144(5) *No Part B funds for repair or construction.* No funds under Part B of the Act may be used for repairs, minor remodeling, or construction of private school facilities.

281—41.145(256B,34CFR300) Applicability of rules 281—41.146(256B,34CFR300) and 281—41.147(256B,34CFR300). Rules 281—41.146(256B,34CFR300) and 281— 41.147(256B,34CFR300) apply only to children with disabilities who are or have been placed in or referred to a private school or facility by a public agency as a means of providing special education and related services.
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.146(256B,34CFR300) Responsibility of department. The department must ensure the following for each child with a disability who is placed in or referred to a private school or facility by a public agency.

41.146(1) *FAPE.* The child is provided special education and related services in conformance with an IEP that meets the requirements of rules 281—41.320(256B,34CFR300) to 281—41.325(256B,34CFR300) and at no cost to the parents.

41.146(2) *Meet state standards.* The child is provided an education that meets the standards that apply to education provided by the SEA and LEAs, including the requirements of this chapter except for subrule 41.156(3).

41.146(3) *All rights.* The child has all of the rights of a child with a disability who is served by a public agency.
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.147(256B,34CFR300) Implementation by department. In implementing rule 281— 41.146(256B,34CFR300), the department must monitor compliance through procedures such as written reports, on-site visits, and parent questionnaires; disseminate copies of applicable standards to each private school and facility to which a public agency has referred or placed a child with a disability; and provide an opportunity for those private schools and facilities to participate in the development and revision of state standards that apply to them.

281—41.148(256B,34CFR300) Placement of children by parents when FAPE is at issue.

41.148(1) *General.* An LEA or AEA is not required to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made

FAPE available to the child and the parents elected to place the child in a private school or facility. However, the public agency must include that child in the population whose needs are addressed consistent with rules 281—41.131(256,256B,34CFR300) to 281—41.144(256,256B,34CFR300) and Iowa Code section 256.12.

41.148(2) *Disagreements about FAPE.* Disagreements between the parents and a public agency regarding the availability of a program appropriate for the child, and the question of financial reimbursement, are subject to the due process procedures in rules 281—41.504(256B,34CFR300) to 281—41.520(256B,34CFR300).

41.148(3) *Reimbursement for private school placement.* If the parents of a child with a disability who previously received special education and related services under the authority of a public agency enroll the child in a private preschool, elementary school, or secondary school without the consent of or referral by the public agency, a court or an administrative law judge may require the agency to reimburse the parents for the cost of that enrollment if the court or administrative law judge finds that the agency had not made FAPE available to the child in a timely manner prior to that enrollment and that the private placement is appropriate. A parental placement may be found to be appropriate by an administrative law judge or a court even if it does not meet the state standards that apply to education provided by the SEA and LEAs.

41.148(4) *Limitation on reimbursement.* The cost of reimbursement described in subrule 41.148(3) may be reduced or denied in any of the following cases.

a. At the most recent IEP team meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP team that they were rejecting the placement proposed by the public agency to provide FAPE to their child, including stating their concerns and their intent to enroll their child in a private school at public expense;

b. At least ten business days, including any holidays that occur on a business day, prior to the removal of the child from the public school, the parents did not give written notice to the public agency of the information described in paragraph 41.148(4)*"a"*;

c. If, prior to the parents' removal of the child from the public school, the public agency informed the parents, through the notice requirements described in paragraph 41.503(1)*"a,"* of its intent to evaluate the child, including a statement of the purpose of the evaluation that was appropriate and reasonable, but the parents did not make the child available for the evaluation; or

d. Upon a judicial finding of unreasonableness with respect to actions taken by the parents.

41.148(5) *Exceptions.* Notwithstanding the notice requirement in paragraphs 41.148(4)*"a"* and *"b,"* the cost of reimbursement:

a. Must not be reduced or denied for failure to provide the notice if:

(1) The school prevented the parents from providing the notice;

(2) The parents had not received notice, pursuant to rule 281—41.504(256B,34CFR300), of the notice requirement in paragraphs 41.148(4)*"a"* and *"b"*; or

(3) Compliance with paragraphs 41.148(4)*"a"* and *"b"* would likely result in physical harm to the child; and

b. May, in the discretion of the court or an administrative law judge, not be reduced or denied for failure to provide this notice if:

(1) The parents are not literate or cannot write in English; or

(2) Compliance with paragraphs 41.148(4)*"a"* and *"b"* would likely result in serious emotional harm to the child.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.149(256B,34CFR300) SEA responsibility for general supervision. The state shall exercise general supervision over the implementation of Part B of the Act and this chapter. Part B of the Act does not limit the responsibility of agencies other than educational agencies for providing or paying for some or all of the costs of FAPE to eligible individuals.

281—41.150 Reserved.

281—41.151(256B,34CFR300) Adoption of state complaint procedures.

41.151(1) *General.* The state maintains written procedures for the following:

a. Resolving any complaint, including a complaint filed by an organization or individual from another state, that meets the requirements of rule 281—41.153(256B,34CFR300) by providing for the filing of a complaint with the department.

b. Widely disseminating to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities, the state procedures under rules 281—41.151(256B,34CFR300) to 281—41.153(256B,34CFR300).

41.151(2) *Remedies for denial of appropriate services.* In resolving a complaint in which the state has found a failure to provide appropriate services, the state, pursuant to its general supervisory authority under Part B of the Act, shall address the following:

a. The failure to provide appropriate services, including corrective action appropriate to address the needs of the child, such as compensatory services or monetary reimbursement; and

b. Appropriate future provision of services for all children with disabilities.

281—41.152(256B,34CFR300) Minimum state complaint procedures.

41.152(1) *Time limit; minimum procedures.* The state shall include in its complaint procedures a time limit of 60 days after a complaint is filed under rule 281—41.153(256B,34CFR300) to do the following:

a. Carry out an independent on-site investigation, if the state determines that an investigation is necessary;

b. Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;

c. Provide the public agency with the opportunity to respond to the complaint, including, at a minimum:

(1) At the discretion of the public agency, a proposal to resolve the complaint; and

(2) An opportunity for a parent who has filed a complaint and the public agency to voluntarily engage in mediation consistent with rules 281—41.506(256B,34CFR300) and 281—41.1002(256B,34CFR300);

d. Review all relevant information and make an independent determination as to whether the public agency is violating a requirement of Part B of the Act or of this chapter; and

e. Issue a written decision to the complainant that addresses each allegation in the complaint and contains:

(1) Findings of fact and conclusions; and

(2) The reasons for the state's final decision.

41.152(2) *Time extension; final decision; implementation.* The state's procedures described in subrule 41.152(1) shall do the following:

a. Permit an extension of the time limit under subrule 41.152(1) only if:

(1) Exceptional circumstances exist with respect to a particular complaint; or

(2) The parent or individual or organization and the public agency involved agree to extend the time to engage in mediation pursuant to subparagraph 41.152(1)*"c"*(2), or to engage in other alternative means of dispute resolution, if available in the state; and

b. Include procedures for effective implementation of the state's final decision, if needed, including:

(1) Technical assistance activities;

(2) Negotiations; and

(3) Corrective actions to achieve compliance.

41.152(3) *Complaints filed under this rule and due process hearings.* If a written complaint is received that is also the subject of a due process hearing under rule 281—41.507(256B,34CFR300) or 281—41.530(256B,34CFR300) to 281—41.532(256B,34CFR300), or that contains multiple issues of which one or more are part of that hearing, the state must set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process action must be resolved using the time limit and procedures described in subrules 41.152(1) and 41.152(2). If an issue raised in a complaint filed under this rule has previously been decided in a due process hearing involving the same parties, the due process hearing

decision is binding on that issue and the state must inform the complainant to that effect. A complaint alleging a public agency's failure to implement a due process hearing decision must be resolved by the state.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.153(256B,34CFR300) Filing a complaint.

41.153(1) *Complainant.* An organization or individual may file a signed written complaint under the procedures described in rules 281—41.151(256B,34CFR300) and 281—41.152(256B,34CFR300).

41.153(2) *Contents of complaint.* The complaint must include the following:

a. A statement that a public agency has violated a requirement of Part B of the Act or of this chapter;

b. The facts on which the statement is based;

c. The signature and contact information for the complainant; and

d. If alleging violations with respect to a specific child:

(1) The name and address of the residence of the child;

(2) The name of the school the child is attending;

(3) In the case of a homeless child or youth within the meaning of Section 725(2) of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11434a(2), available contact information for the child, and the name of the school the child is attending;

(4) A description of the nature of the problem of the child, including facts relating to the problem; and

(5) A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.

41.153(3) *Time limit.* The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received in accordance with rule 281—41.151(256B,34CFR300).

41.153(4) *Complainant must provide copy of complaint to AEA and LEA.* The party filing the complaint must forward a copy of the complaint to the AEA and LEA or public agency serving the child at the same time the party files the complaint with the state.

41.153(5) *Failure to comply with due process hearing decision, mediation agreement, resolution meeting agreement.* A complainant may allege a public agency has failed to comply with a due process hearing decision, or a mediation agreement, or a resolution meeting agreement. If the complaint is substantiated, the state will grant appropriate relief.

281—41.154(256B,34CFR300) Methods of ensuring services.

41.154(1) *Interagency agreements.* An interagency agreement or other mechanism for interagency coordination shall be developed between each noneducational public agency described in subrule 41.154(2) and the SEA, in order to ensure that all services described in paragraph 41.154(2)*"a"* that are needed to ensure FAPE are provided, including the provision of these services during the pendency of any dispute under paragraph *"c"* of this subrule. The agreement or mechanism must include the following:

a. An identification of, or a method for defining, the financial responsibility of each agency for providing services described in paragraph 41.154(2)*"a"* to ensure FAPE to children with disabilities. The financial responsibility of each noneducational public agency described in subrule 41.154(2), including the state Medicaid agency and other public insurers of children with disabilities, must precede the financial responsibility of the LEA (or the state agency responsible for developing the child's IEP).

b. The conditions, terms, and procedures under which an LEA must be reimbursed by other agencies.

c. Procedures for resolving interagency disputes, including procedures under which LEAs may initiate proceedings, under the agreement or other mechanism to secure reimbursement from other agencies or otherwise implement the provisions of the agreement or mechanism.

d. Policies and procedures for agencies to determine and identify the interagency coordination responsibilities of each agency to promote the coordination and timely and appropriate delivery of services described in paragraph 41.154(2)*"a."*

41.154(2) *Obligation of noneducational public agencies.*

a. General rule.

(1) If any public agency other than an educational agency is otherwise obligated under federal or state law, or assigned responsibility under state policy or pursuant to subrule 41.154(1), to provide or pay for any

services that are also considered special education or related services (such as, but not limited to, services described in rule 281—41.5(256B,34CFR300) relating to assistive technology devices, rule 281—41.6(256B,34CFR300) relating to assistive technology services, rule 281—41.34(256B,34CFR300) relating to related services, rule 281—41.42(256B,34CFR300) relating to supplementary aids and services, and rule 281—41.43(256B,34CFR300) relating to transition services) that are necessary for ensuring FAPE to children with disabilities within the state, the public agency must fulfill that obligation or responsibility, either directly or through contract or other arrangement pursuant to subrule 41.154(1) or an agreement pursuant to subrule 41.154(3).

(2) A noneducational public agency described in subparagraph 41.154(2)*"a"*(1) may not disqualify an eligible service for Medicaid reimbursement because that service is provided in a school context.

b. Failure to comply with general rule. If a public agency other than an educational agency fails to provide or pay for the special education and related services described in paragraph 41.154(2)*"a,"* the LEA (or state agency responsible for developing the child's IEP) must provide or pay for these services to the child in a timely manner. The LEA or state agency is authorized to claim reimbursement for the services from the noneducational public agency that failed to provide or pay for these services, and that agency must reimburse the LEA or state agency in accordance with the terms of the interagency agreement or other mechanism described in subrule 41.154(1).

41.154(3) *Special rule.* The requirements of subrule 41.154(1) may be met through the following:

a. State statute or regulation;

b. Signed agreements between respective agency officials that clearly identify the responsibilities of each agency relating to the provision of services; or

c. Other appropriate written methods as determined by the chief executive officer of the state or designee of that officer and approved by the Secretary.

41.154(4) *Children with disabilities who are covered by public benefits or insurance.*

a. General. A public agency may use the Medicaid or other public benefits or insurance programs in which a child participates to provide or pay for services required under this chapter, as permitted under the public benefits or insurance program, except as provided in paragraphs 41.154(4)*"b"* through *"d."*

b. Exceptions to ability to use public benefits or insurance. With regard to services required to provide FAPE to an eligible child under this chapter, the public agency:

(1) May not require parents to sign up for or enroll in public benefits or insurance programs in order for their child to receive FAPE under Part B of the Act;

(2) May not require parents to incur an out-of-pocket expense such as the payment of a deductible or copay amount incurred in filing a claim for services provided pursuant to this chapter but, pursuant to paragraph 41.154(6)*"b,"* may pay the cost that the parents otherwise would be required to pay; and

(3) May not use a child's benefits under a public benefits or insurance program if that use would do any of the following:

1. Decrease available lifetime coverage or any other insured benefit;

2. Result in the family's paying for services that would otherwise be covered by the public benefits or insurance program and that are required for the child outside of the time the child is in school;

3. Increase premiums or lead to the discontinuation of benefits or insurance; or

4. Risk loss of eligibility for home- and community-based waivers, based on aggregate health-related expenditures.

c. Consent requirements. Prior to accessing a child's or parent's public benefits or insurance for the first time, and after providing notification to the child's parents consistent with paragraph 41.154(4)*"d,"* the public agency must obtain written parental consent that:

(1) Meets the requirements of 34 CFR Section 99.30 and rule 281—41.622(256B,34CFR300), which consent must specify the personally identifiable information that may be disclosed (e.g., records or information about the services that may be provided to a particular child), the purpose of the disclosure (e.g., billing for services under this chapter), and the agency to which the disclosure may be made (e.g., the state's public benefits or insurance program (e.g., Medicaid)); and

(2) Specifies that the parent understands and agrees that the public agency may access the parent's or child's public benefits or insurance to pay for services under this chapter.

d. Notification requirements. Prior to accessing a child's or parent's public benefits or insurance for the first time, and annually thereafter, the public agency must provide written notification, consistent with subrule 41.503(3), to the child's parents, that includes:

(1) A statement of the parental consent provisions in paragraph 41.154(4)*"c"*;

(2) A statement of the "no cost" provisions in paragraph 41.154(4)*"b"*;

(3) A statement that the parents have the right under 34 CFR Part 99 and this chapter to withdraw their consent to disclosure of their child's personally identifiable information to the agency responsible for the administration of the state's public benefits or insurance program (e.g., Medicaid) at any time; and

(4) A statement that the withdrawal of consent or refusal to provide consent under 34 CFR Part 99 and this chapter to disclose personally identifiable information to the agency responsible for the administration of the state's public benefits or insurance program (e.g., Medicaid) does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parents.

41.154(5) *Children with disabilities who are covered by private insurance.*

a. General. With regard to services required to provide FAPE to an eligible child under this chapter, a public agency may access the parents' private insurance proceeds only if the parents provide consent consistent with rule 281—41.9(256B,34CFR300).

b. Obtaining access to private insurance proceeds. Each time the public agency proposes to access the parents' private insurance proceeds, the agency must:

(1) Obtain parental consent in accordance with paragraph 41.154(5)*"a"*; and

(2) Inform the parents that their refusal to permit the public agency to access their private insurance does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parents.

41.154(6) *Use of Part B funds.*

a. Agency unable to obtain consent. If a public agency is unable to obtain parental consent to use the parents' private insurance, or public benefits or insurance when the parents would incur a cost for a specified service required under this chapter, to ensure FAPE, the public agency may use its Part B funds to pay for the service.

b. Use of Part B funds to avoid cost to parents. To avoid financial cost to parents who otherwise would consent to use private insurance, or public benefits or insurance if the parents would incur a cost, the public agency may use its Part B funds to pay the cost that the parents otherwise would have to pay to use the parents' benefits or insurance (e.g., the deductible or copay amounts).

41.154(7) *Proceeds from public benefits or insurance or private insurance.* Proceeds from public benefits or insurance or private insurance will not be treated as program income for purposes of 34 CFR 80.25. If a public agency spends reimbursements from federal funds (e.g., Medicaid) for services under this chapter, those funds will not be considered state or local funds for purposes of the maintenance of effort provisions in rules 281—41.163(256B,34CFR300) and 281—41.203(256B,34CFR300).

41.154(8) *Rule of construction.* Nothing in this chapter should be construed to alter the requirements imposed on a state Medicaid agency, or any other agency administering a public benefits or insurance program by federal statute, regulations or policy under Title XIX or Title XXI of the Social Security Act, 42 U.S.C. 1396 through 1396v and 42 U.S.C. 1397aa through 1397jj, or any other public benefits or insurance program.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.155(256B,34CFR300) Hearings relating to AEA or LEA eligibility. The department shall not make any final determination that an AEA or LEA is not eligible for assistance under Part B of the Act without first giving the AEA or LEA reasonable notice and an opportunity for a hearing under 34 CFR 76.401(d).

281—41.156(256B,34CFR300) Personnel qualifications.

41.156(1) *General.* The SEA must establish and maintain qualifications to ensure that personnel necessary to carry out the purposes of Part B of the Act and of this chapter are appropriately and adequately prepared, trained, and licensed, including ensuring that those personnel have the content knowledge and skills to serve children with disabilities.

41.156(2) *Related services personnel and paraprofessionals.* The qualifications under subrule 41.156(1) must include qualifications for related services personnel and paraprofessionals that:

a. Are consistent with any state-approved or state-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services; and

b. Ensure that related services personnel who deliver services in their discipline or profession:

(1) Meet the requirements of paragraph 41.156(2)*"a"*; and

(2) Have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis; and

(3) Allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with state law, regulation, or written policy, in meeting the requirements of this chapter to be used to assist in the provision of special education and related services under this chapter to children with disabilities.

41.156(3) *Qualifications for special education teachers.* The qualifications described in subrule 41.156(1) must ensure that each person employed as a public school special education teacher in the state who teaches in an elementary school, middle school, or secondary school meets the following standards:

a. The teacher has obtained full state certification as a special education teacher, including certification obtained through alternative routes to certification, or has passed the state special education teacher licensing examination and holds a license to teach in the state as a special education teacher, except that a teacher teaching in a public charter school must meet the certification or licensing requirements, if any, set forth in the state's public charter school law;

b. The teacher has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and

c. The teacher holds at least a bachelor's degree.

41.156(4) *Policy.* In implementing this rule, the state must adopt a policy that includes a requirement that AEAs and LEAs in the state take measurable steps to recruit, hire, train, and retain personnel described in this rule to provide special education and related services under Part B of the Act and this chapter to children with disabilities.

41.156(5) *Rule of construction.* Notwithstanding any other individual right of action that a parent or student may maintain under this chapter, nothing in this chapter shall be construed to create a right of action on behalf of an individual student or a class of students for the failure of a particular SEA, AEA, or LEA employee to meet the requirements of this rule, or to prevent a parent from filing a complaint about staff qualifications with the SEA as provided for under this chapter.

41.156(6) *Positive efforts to employ and advance qualified individuals with disabilities.* Each recipient of assistance under Part B of the Act must make positive efforts to employ, and advance in employment, qualified individuals with disabilities in programs assisted under Part B of the Act.

41.156(7) *Additional rules of construction.*

a. A special educator teaching in one or more core academic subjects must be appropriately licensed in each core academic subject or must collaborate with an appropriately licensed teacher.

b. A teacher will be considered to meet the standard in subrule 41.156(3) if that teacher is participating in an alternative route to special education certification program as follows:

(1) The teacher meets the following requirements:

1. Before and while teaching, receives high-quality professional development that is sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction;

2. Participates in a program of intensive supervision that consists of structured guidance and regular ongoing support for teachers or in a teacher mentoring program;

3. Assumes functions as a teacher only for a specified period of time not to exceed three years; and

4. Demonstrates satisfactory progress toward full certification as prescribed by the state; and

(2) The state ensures, through its certification and licensure process, that the provisions in subparagraph 41.156(7)*"b"*(1) are met.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.157 to **41.159** Reserved.

281—41.160(256B,34CFR300) Participation in assessments.

41.160(1) *General.* The state must ensure that all children with disabilities are included in all general state and districtwide assessment programs, including assessments described under Section 1111 of the ESEA, 20 U.S.C. Section 6311, with appropriate accommodations and alternate assessments, if necessary, as indicated in their respective IEPs.

41.160(2) *Accommodation guidelines.*

a. The state (or, in the case of a districtwide assessment, an LEA) must develop guidelines for the provision of appropriate accommodations.

b. The state's (or, in the case of a districtwide assessment, the LEA's) guidelines must:

(1) Identify only those accommodations for each assessment that do not invalidate the score; and

(2) Instruct IEP teams to select, for each assessment, only those accommodations that do not invalidate the score.

41.160(3) *Alternate assessments.*

a. The state (or, in the case of a districtwide assessment, an LEA) must develop and implement alternate assessments and guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in regular assessments, even with accommodations, as indicated in their respective IEPs, as provided in subrule 41.160(1).

b. For assessing the academic progress of students with disabilities under Title I of the ESEA, the alternate assessments and guidelines in paragraph 41.160(3)*"a"* must provide for alternate assessments that:

(1) Are aligned with the state's challenging academic content standards and challenging student academic achievement standards;

(2) If the state has adopted alternate academic achievement standards permitted in 34 CFR 200.1(d), measure the achievement of children with the most significant cognitive disabilities against those standards; and

(3) Except as provided in subparagraph 41.160(3)*"b"*(2), a state's alternate assessments, if any, must measure the achievement of children with disabilities against the state's grade-level academic achievement standards, consistent with 34 CFR 200.6(a)(2)(ii)(A).

c. Consistent with 34 CFR 200.1(e), a state may not adopt modified academic achievement standards for any students with disabilities under Section 602(3) of the Act.

41.160(4) *Explanation to IEP teams.* The state (or, in the case of a districtwide assessment, an LEA) must provide IEP teams with a clear explanation of the differences between assessments based on grade-level academic achievement standards and those based on alternate academic achievement standards, including any effects of state or local policies on the student's education resulting from taking an alternate assessment based on alternate academic achievement standards (such as whether only satisfactory performance on a regular assessment would qualify a student for a regular high school diploma).

41.160(5) *Inform parents.* The state (or, in the case of a districtwide assessment, an LEA) must ensure that parents of students selected to be assessed based on alternate academic achievement standards are informed that their child's achievement will be measured based on alternate academic achievement standards.

41.160(6) *Reports.* The state (or, in the case of a districtwide assessment, an LEA) must make available to the public, and report to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:

a. The number of children with disabilities participating in regular assessments, and the number of those children who were provided accommodations (that did not result in an invalid score) in order to participate in those assessments.

b. The number of children with disabilities, if any, participating in alternate assessments based on grade-level academic achievement standards.

c. The number of children with disabilities, if any, participating in alternate assessments based on modified academic achievement standards in school years prior to 2015-2016.

d. The number of children with disabilities, if any, participating in alternate assessments based on alternate academic achievement standards.

e. Compared with the achievement of all children, including children with disabilities, the performance results of children with disabilities on regular assessments, alternate assessments based on grade-level academic achievement standards, alternate assessments based on modified academic achievement standards (prior to 2015-2016), and alternate assessments based on alternate academic achievement standards if:

(1) The number of children participating in those assessments is sufficient to yield statistically reliable information; and

(2) Reporting that information will not reveal personally identifiable information about an individual student on those assessments.

41.160(7) *Universal design.* The state (or, in the case of a districtwide assessment, an LEA) must, to the extent possible, use universal design principles in developing and administering any assessments under this rule.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.161 Reserved.

281—41.162(256B,34CFR300) Supplementation of state, local, and other federal funds.

41.162(1) *Expenditures.* Funds paid to a state under this chapter must be expended in accordance with all the provisions of this chapter.

41.162(2) *Prohibition against commingling.*

a. Funds paid to a state under this chapter must not be commingled with state funds.

b. The requirement in paragraph 41.162(2)*"a"* is satisfied by the use of a separate accounting system that includes an audit trail of the expenditure of funds paid to a state under this chapter. Separate bank accounts are not required. (See 34 CFR 76.702, fiscal control and fund accounting procedures.)

41.162(3) *State-level nonsupplanting.*

a. Except as provided in rule 281—41.203(256B,34CFR300), funds paid to a state under Part B of the Act must be used to supplement the level of federal, state, and local funds, including funds that are not under the direct control of the SEA or LEAs, expended for special education and related services provided to children with disabilities under Part B of the Act, and in no case to supplant those federal, state, and local funds.

b. If the state provides clear and convincing evidence that all children with disabilities have available to them FAPE, the Secretary may waive, in whole or in part, the requirements of paragraph 41.162(3)*"a"* if the Secretary concurs with the evidence provided by the state under 34 CFR Section 300.164.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.163(256B,34CFR300) Maintenance of state financial support. The state must not reduce the amount of state financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year.

281—41.164 Reserved.

281—41.165(256B,34CFR300) Public participation.

41.165(1) *General.* Prior to the adoption of any policies and procedures needed to comply with Part B of the Act, including any amendments to those policies and procedures, the state must ensure that there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities.

41.165(2) *State plan.* Before submitting a state plan under this chapter, the state must comply with the public participation requirements in subrule 41.165(1) and those in 20 U.S.C. 1232d(b)(7).

281—41.166(256B,34CFR300) Rule of construction. In complying with rules 281— 41.162(256B,34CFR300) and 281—41.163(256B,34CFR300), the state may not use funds paid to it under this chapter to satisfy state-mandated funding obligations to LEAs, including funding based on student attendance or enrollment, or inflation.

281—41.167(256B,34CFR300) State advisory panel. An advisory panel is established and maintained for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the state.

281—41.168(256B,34CFR300) Advisory panel membership.

41.168(1) *General.* The advisory panel must consist of members appointed by the director of education, be representative of the state population and be composed of individuals involved in or concerned with the education of children with disabilities, including:

a. Parents of children with disabilities aged birth to 26;

b. Individuals with disabilities;

c. Teachers;

d. Representatives of institutions of higher education that prepare special education and related services personnel;

e. State and local education officials, including officials who carry out activities under Subtitle B of Title VII of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11431 et seq.;

f. Administrators of programs for children with disabilities;

g. Representatives of other state agencies involved in the financing or delivery of related services to children with disabilities;

h. Representatives of private schools and public charter schools;

i. At least one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities;

j. A representative from the state child welfare agency responsible for foster care; and

k. Representatives from the state juvenile and adult corrections agencies.

41.168(2) *Special rule.* A majority of the members of the panel must be individuals with disabilities or parents of children with disabilities aged birth to 26.

281—41.169(256B,34CFR300) Advisory panel duties. The advisory panel must:

1. Advise the department of unmet needs within the state in the education of children with disabilities;
2. Comment publicly on any rules or regulations proposed by the state regarding the education of children with disabilities;
3. Advise the department in developing evaluations and reporting on data to the Secretary under Section 618 of the Act;
4. Advise the department in developing corrective action plans to address findings identified in federal monitoring reports under Part B of the Act;
5. Advise the department in developing and implementing policies relating to the coordination of services for children with disabilities; and
6. Advise the department on eligible individuals with disabilities in adult prisons.

281—41.170(256B,34CFR300) Suspension and expulsion rates.

41.170(1) *General.* The department must examine data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities:

a. Among LEAs in the state; or

b. Compared to the rates for nondisabled children within an LEA.

41.170(2) *Review and revision of policies.* If the discrepancies described in subrule 41.170(1) are occurring, the department must review and, if appropriate, revise (or require the affected state agency or LEA to revise) its policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards to ensure that these policies, procedures, and practices comply with the Act.

281—41.171 Reserved.

281—41.172(256B,34CFR300) Access to instructional materials.

41.172(1) *General.* The state:

a. Adopts the National Instructional Materials Accessibility Standard (NIMAS) published in the Federal Register on July 19, 2006 (71 Fed. Reg. 41084), for the purposes of providing instructional materials to persons who are blind or visually impaired or other persons with print disabilities in a timely manner; and

b. Establishes the following definition of "timely manner" for purposes of this chapter: Providing instructional materials in accessible formats to children with disabilities in a "timely manner" means delivering those accessible instructional materials at the same time as other children receive instructional materials.

41.172(2) *Public agencies.* All public agencies must comply with rule 281—41.210(256B,34CFR300).

41.172(3) *Assistive technology.* In carrying out this rule, the department, to the maximum extent possible, must work collaboratively with the state agency responsible for assistive technology programs.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.173(256B,34CFR300) Overidentification and disproportionality. Each public agency shall implement policies and procedures developed by the department designed to prevent the inappropriate overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment.

281—41.174(256B,34CFR300) Prohibition on mandatory medication.

41.174(1) *General.* No public agency personnel are permitted to require parents to obtain a prescription for substances identified under Schedule I, II, III, IV, or V in Section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) for a child as a condition of attending school, receiving an evaluation or services under Part B or this chapter.

41.174(2) *Rule of construction.* Nothing in subrule 41.174(1) shall be construed to create a federal prohibition against teachers and other school personnel consulting or sharing classroom-based observations with parents or guardians regarding a student's academic and functional performance, or behavior in the classroom or school, or regarding the need for evaluation for special education or related services under rule 281—41.111(256B,34CFR300) related to child find.

281—41.175 Reserved.

281—41.176(256B) Special school provisions.

41.176(1) *Providers.* Special schools for eligible individuals who require special education outside the general education environment may be maintained by individual LEAs, jointly by two or more LEAs, by the AEA, jointly by two or more AEAs, by the state directly, or by approved private providers.

41.176(2) *Department recognition.* Department recognition of agencies providing special education and related services shall be of two types:

a. Recognition of nonpublic agencies and state-operated programs providing special education and related services in compliance with these rules.

b. Approval for nonpublic agencies to provide special education and related services and to receive special education funds for the special education and related services contracted for by an LEA or an AEA.

281—41.177(256B) Facilities.

41.177(1) *Equivalent to general education.* Each agency providing special education and related services shall supply facilities that shall be at least equivalent in quality to general education classrooms in the system, located in buildings housing regularly enrolled individuals of comparable ages, and readily accessible to individuals with disabilities.

41.177(2) *Personnel space and assistance.* Each agency providing special education shall ensure that special education personnel are provided adequate access to telephone service and clerical assistance and

sufficient and appropriate work space regularly available for their use that is readily accessible to individuals with disabilities.
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.178(256B) Materials, equipment and assistive technology.

41.178(1) *Provision for materials, equipment, and assistive technology.* Each LEA shall make provision for special education and related services, facility modifications, assistive technology, necessary equipment and materials, including both durable items and expendable supplies; provided that, where an AEA, pursuant to appropriate arrangements authorized by the Iowa Code, furnishes special education and related services, performance by the AEA shall be accepted in lieu of performance by the LEA.

41.178(2) *Acquire and maintain equipment.* Each agency providing special education and related services shall have a comprehensive program in operation under which equipment for special education is acquired, inventoried, maintained, calibrated and replaced on a planned and regular basis.

281—41.179 to **41.185** Reserved.

281—41.186(256B,34CFR300) Assistance under other federal programs. Part B of the Act will not be construed to permit a state to reduce medical and other assistance available, or to alter eligibility, under Titles V and XIX of the Social Security Act with respect to the provision of FAPE to children with disabilities in the state.
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.187(256B) Research, innovation, and improvement.

41.187(1) *Evaluation and improvement.* Each agency, in conjunction with other agencies, the department, or both, shall implement activities designed to evaluate and improve special education. These activities shall document the individual performance resulting from the provision of special education.

41.187(2) *Research.* Each agency shall cooperate in research activities designed to evaluate and improve special education when such activities are sponsored by an LEA, an AEA or the department, or another agency, when approved by the department, to assess and ensure the effectiveness of efforts to educate all children with disabilities.

41.187(3) *Support and facilitation.* State rules, regulations, and policies under Part B of the Act must support and facilitate AEA, LEA and school-level system improvement designed to enable children with disabilities to meet the challenging state student academic achievement standards.

281—41.188 to **41.199** Reserved.

DIVISION IV
LEA AND AEA ELIGIBILITY, IN GENERAL

281—41.200(256B,34CFR300) Condition of assistance. An AEA or an LEA is eligible for assistance under Part B of the Act for a fiscal year if the agency submits a plan that provides assurances to the state that the LEA meets each of the conditions in rules 281—41.201(256B,34CFR300) to 281—41.213(256B,34CFR300).

41.200(1) *Required descriptions, policies and procedures.* Each AEA will submit to the department the policies and procedures identified in subrules 41.407(1) and 41.407(2) and other descriptions that may be required by the department for approval. Any modifications to an AEA's descriptions, policies or procedures are to be submitted to the department for approval.

41.200(2) *AEA application.* Each AEA will submit to the department, 45 calendar days prior to the start of the project year, an application for federal funds under Part B of the Act, implementing federal regulations, and this chapter. An AEA application will receive department approval only when there is an approved AEA comprehensive plan as described in rule 281—72.9(273) on file at the department and the requirements of subrule 41.200(1) have been met. The application, on forms provided by the department, includes the following:

a. General information.

b. Utilization of funds.

c. Assurances.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.201(256B,34CFR300) Consistency with state policies. The AEA or LEA, in providing for the education of children with disabilities within its jurisdiction, must have in effect policies, procedures, and programs that are consistent with the state policies and procedures established under 281—41.101(256B,34CFR300) to 281—41.163(256B,34CFR300) and 281—41.165(256B,34CFR300) to 281—41.187(256B).

281—41.202(256B,34CFR300) Use of amounts.

41.202(1) *General.* Amounts provided to the AEA or LEA under Part B of the Act must be:

a. Expended in accordance with the applicable provisions of Part B of the Act and this chapter;

b. Used only to pay the excess costs of providing special education and related services to children with disabilities, consistent with subrule 41.202(2); and

c. Used to supplement state, local, and other federal funds, and not to supplant those funds.

41.202(2) *Excess cost requirement.*

a. General.

(1) The excess cost requirement prevents an AEA or LEA from using funds provided under Part B of the Act to pay for all of the costs directly attributable to the education of a child with a disability, subject to subparagraph 41.202(2)*"a"*(2).

(2) The excess cost requirement does not prevent an AEA or LEA from using Part B funds to pay for all of the costs directly attributable to the education of a child with a disability aged 3 to 5 or 18 to 20 if no local or state funds are available for nondisabled children of these ages. However, the AEA or LEA must comply with the nonsupplanting and other requirements of Part B of the Act and of this chapter in providing the education and services for these children.

b. Meeting excess cost requirement.

(1) An AEA or LEA meets the excess cost requirement if it has spent at least a minimum average amount for the education of its children with disabilities before funds under Part B of the Act are used.

(2) The amount described in subparagraph 41.202(2)*"b"*(1) is determined in accordance with the definition of excess costs in rule 281—41.16(256B,34CFR300). That amount may not include capital outlay or debt service.

c. Joint establishment of eligibility. If two or more AEAs or LEAs jointly establish eligibility in accordance with rule 281—41.223(256B,34CFR300), the minimum average amount is the average of the combined minimum average amounts determined in accordance with the definition of excess costs in rule 281—41.16(256B,34CFR300) in those agencies for elementary or secondary school students, as the case may be.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.203(256B,34CFR300) Maintenance of effort.

41.203(1) *Eligibility standard.*

a. For purposes of establishing the LEA's eligibility for an award for a fiscal year, the SEA must determine that the LEA budgets, for the education of children with disabilities, at least the same amount, from at least one of the following sources, as the LEA spent for that purpose from the same source for the most recent fiscal year for which information is available:

(1) Local funds only;

(2) The combination of state and local funds;

(3) Local funds only on a per capita basis; or

(4) The combination of state and local funds on a per capita basis.

b. When determining the amount of funds that the LEA must budget to meet the requirement in paragraph 41.203(1)*"a,"* the LEA may take into consideration, to the extent the information is available,

the exceptions and adjustment provided in rules 281—41.204(256B,34CFR300) and 281—41.205(256B,34CFR300) that the LEA:

(1) Took in the intervening year or years between the most recent fiscal year for which information is available and the fiscal year for which the LEA is budgeting; and

(2) Reasonably expects to take in the fiscal year for which the LEA is budgeting.

c. Expenditures made from funds provided by the federal government for which the SEA is required to account to the federal government or for which the LEA is required to account to the federal government directly or through the SEA may not be considered in determining whether an LEA meets the standard in paragraph 41.203(1)*"a"*

41.203(2) *Compliance standard.*

a. Except as provided in rules 281—41.204(256B,34CFR300) and 281—41.205(256B,34CFR300), funds provided to an LEA under Part B of the Act must not be used to reduce the level of expenditures for the education of children with disabilities made by the LEA from local funds below the level of those expenditures for the preceding fiscal year.

b. An LEA meets this standard if it does not reduce the level of expenditures for the education of children with disabilities made by the LEA from at least one of the following sources below the level of those expenditures from the same source for the preceding fiscal year, except as provided in rules 281—41.204(256B,34CFR300) and 281—41.205(256B,34CFR300):

(1) Local funds only;

(2) The combination of state and local funds;

(3) Local funds only on a per capita basis; or

(4) The combination of state and local funds on a per capita basis.

c. Expenditures made from funds provided by the federal government for which the SEA is required to account to the federal government or for which the LEA is required to account to the federal government directly or through the SEA may not be considered in determining whether an LEA meets the standard in paragraphs 41.203(2)*"a"* and 41.203(2)*"b."*

41.203(3) *Subsequent years.*

a. If, in the fiscal year beginning on July 1, 2013, or July 1, 2014, an LEA fails to meet the requirements of 34 CFR 300.203 and rule 281—41.203(256B,34CFR300) in effect at that time, the level of expenditures required of the LEA for the fiscal year subsequent to the year of the failure is the amount that would have been required in the absence of that failure, not the LEA's reduced level of expenditures.

b. If, in any fiscal year beginning on or after July 1, 2015, an LEA fails to meet the requirement of subparagraph 41.203(2)*"b"*(1) or 41.203(2)*"b"*(3) and the LEA is relying on local funds only, or local funds only on a per capita basis, to meet the requirements of subrule 41.203(1) or 41.203(2), the level of expenditures required of the LEA for the fiscal year subsequent to the year of the failure is the amount that would have been required under subparagraph 41.203(2)*"b"*(1) or 41.203(2)*"b"*(3) in the absence of that failure, not the LEA's reduced level of expenditures.

c. If, in any fiscal year beginning on or after July 1, 2015, an LEA fails to meet the requirement of subparagraph 41.203(2)*"b"*(2) or 41.203(2)*"b"*(4) and the LEA is relying on the combination of state and local funds, or the combination of state and local funds on a per capita basis, to meet the requirements of subrule 41.203(1) or 41.203(2), the level of expenditures required of the LEA for the fiscal year subsequent to the year of the failure is the amount that would have been required under subparagraph 41.203(2)*"b"*(2) or 41.203(2)*"b"*(4) in the absence of that failure, not the LEA's reduced level of expenditures.

41.203(4) *Consequence of failure to maintain effort.* If an LEA fails to maintain its level of expenditures for the education of children with disabilities in accordance with subrule 41.203(2), the SEA is liable in a recovery action under Section 452 of the General Education Provisions Act (20 U.S.C. 1234a) to return to the U.S. Department of Education, using nonfederal funds, an amount equal to the amount by which the LEA failed to maintain its level of expenditures in accordance with subrule 41.203(2) in that fiscal year, or the amount of the LEA's Part B subgrant in that fiscal year, whichever is lower.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.204(256B,34CFR300) Exception to maintenance of effort. Notwithstanding the restriction in subrule 41.203(2), an AEA or LEA may reduce the level of expenditures by the AEA or LEA under Part B

of the Act below the level of those expenditures for the preceding fiscal year if the reduction is attributable to any of the following:

41.204(1) *Departure of personnel.* The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel.

41.204(2) *Decrease in enrollment.* A decrease in the enrollment of children with disabilities.

41.204(3) *Termination of obligation to provide an "exceptionally costly" program to a particular child.* The termination of the obligation of the agency to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the SEA, because the child:

a. Has left the jurisdiction of the agency;

b. Has reached the age at which the obligation of the agency to provide FAPE to the child has terminated; or

c. No longer needs the program of special education.

41.204(4) *Termination of costly expenditures for long-term purchases.* The termination of costly expenditures for long-term purchases, such as the acquisition of equipment.

41.204(5) *High-cost fund.* The assumption of cost by the high-cost fund operated by the state under this chapter.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.205(256B,34CFR300) Adjustment to local fiscal efforts in certain fiscal years.

41.205(1) *Amounts in excess.* Notwithstanding paragraph 41.202(1)*"b"* and subrules 41.202(2) and 41.203(2), and except as provided in subrule 41.205(4) and 34 CFR 300.230(e)(2), for any fiscal year for which the allocation received by an LEA under rule 281—41.705(256B,34CFR300) exceeds the amount the LEA received for the previous fiscal year, the LEA may reduce the level of expenditures otherwise required by subrule 41.203(2) by not more than 50 percent of the amount of that excess.

41.205(2) *Use of amounts to carry out activities under ESEA.* If an LEA exercises the authority under subrule 41.205(1), the LEA must use an amount of local funds equal to the reduction in expenditures under subrule 41.205(1) to carry out activities that could be supported with funds under the ESEA regardless of whether the LEA is using funds under the ESEA for those activities.

41.205(3) *State prohibition.* Notwithstanding subrule 41.205(1), if the SEA determines that an LEA is unable to establish and maintain programs of FAPE that meet the requirements of Section 613(a) of the Act and of this chapter or the SEA has taken action against the LEA under Section 616 of the Act and rules 281—41.600(256B,34CFR300) to 281—41.609(256B,34CFR300), the SEA must prohibit the LEA from reducing the level of expenditures under subrule 41.205(1) for that fiscal year.

41.205(4) *Special rule.* The amount of funds expended by an LEA for early intervening services under rule 281—41.226(256B,34CFR300) shall count toward the maximum amount of expenditures that the LEA may reduce under subrule 41.205(1).

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.206(256B,34CFR300) Schoolwide programs under Title I of the ESEA.

41.206(1) *General.* Notwithstanding the provisions of rules 281—41.202(256B,34CFR300) and 281—41.203(256B,34CFR300) or any other provision of Part B of the Act, an LEA may use funds received under Part B of the Act for any fiscal year to carry out a schoolwide program under Section 1114 of the ESEA, except that the amount used in any schoolwide program may not exceed the amount received by the LEA under Part B of the Act for that fiscal year; divided by the number of children with disabilities in the jurisdiction of the LEA; and multiplied by the number of children with disabilities participating in the schoolwide program.

41.206(2) *Funding conditions.* The funds described in subrule 41.206(1) are subject to the following conditions:

a. The funds must be considered as federal Part B funds for purposes of the calculations required by paragraphs 41.202(1)*"b"* and *"c."*

b. The funds may be used without regard to the requirements of paragraph 41.202(1)*"a."*

41.206(3) *Meeting other Part B requirements.* Except as provided in subrule 41.206(2), all other requirements of Part B of the Act must be met by an LEA using Part B funds in accordance with subrule 41.206(1), including ensuring that children with disabilities in schoolwide program schools:

a. Receive services in accordance with a properly developed IEP; and

b. Are afforded all of the rights and services guaranteed to children with disabilities under the Act.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.207(256B,34CFR300) Personnel development. Each public agency must ensure that all personnel necessary to carry out Part B of the Act are appropriately and adequately prepared, subject to the requirements of rule 281—41.156(256B,34CFR300) related to personnel qualifications and Section 2102(b) of the ESEA.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.208(256B,34CFR300) Permissive use of funds.

41.208(1) *Uses.* Notwithstanding rule 281—41.202(256B,34CFR300) and subrules 41.203(2) and 41.162(2), funds provided to an LEA under Part B of the Act may be used for the following activities:

a. Services and aids that also benefit nondisabled children. For the costs of special education and related services and supplementary aids and services provided in a regular class or other education-related setting to a child with a disability in accordance with the IEP of the child, even if one or more nondisabled children benefit from these services. This provision may not be construed to apply to rules 281—41.172(256B,34CFR300) and 281—41.210(256B,34CFR300).

b. Early intervening services. To develop and implement coordinated, early intervening educational services in accordance with rule 281—41.226(256B,34CFR300). Such development and implementation may be required by the SEA under subrule 41.646(2).

c. High-cost special education and related services. To establish and implement cost- or risk-sharing funds, consortia, or cooperatives for the LEA itself, or for LEAs working in a consortium of which the LEA is a part, to pay for high-cost special education and related services.

41.208(2) *Administrative case management.* An LEA may use funds received under Part B of the Act to purchase appropriate technology for record keeping, data collection, and related case management activities of teachers and related services personnel providing services described in the IEP of children with disabilities, that is needed for the implementation of those case management activities.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.209(256B,34CFR300) Treatment of charter schools and their students.

41.209(1) *Rights of children with disabilities.* Children with disabilities who attend public charter schools and their parents retain all rights under this chapter.

41.209(2) *Charter schools that are public schools of the LEA.*

a. General. In carrying out Part B of the Act and these rules with respect to charter schools that are public schools of the LEA, the LEA must:

(1) Serve children with disabilities attending those charter schools in the same manner as the LEA serves children with disabilities in its other schools, including providing supplementary and related services on site at the charter school to the same extent to which the LEA has a policy or practice of providing such services on the site to its other public schools; and

(2) Provide funds under Part B of the Act to those charter schools:

1. On the same basis as the LEA provides funds to the LEA's other public schools, including proportional distribution based on relative enrollment of children with disabilities; and

2. At the same time as the LEA distributes other federal funds to the LEA's other public schools, consistent with the state's charter school law.

b. Relationship to rule 281—41.705(256B,34CFR300). If the public charter school is a school of an LEA that receives funding under rule 281—41.705(256B,34CFR300) and includes other public schools:

(1) The LEA is responsible for ensuring that the requirements of this chapter are met, unless state law assigns that responsibility to some other entity; and

(2) The LEA must meet the requirements of paragraph 41.209(2)*"a."*

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.210(256B,34CFR300) Purchase of instructional materials.

41.210(1) *General.* An AEA, an LEA, or any other public agency, when purchasing print instructional materials, must acquire those instructional materials for children who are blind or visually impaired or for other persons with print disabilities in a manner consistent with subrule 41.210(3) and ensure delivery of those materials in a timely manner to those children.

41.210(2) *Rights and responsibilities of AEA or LEA.* Nothing in this rule relieves the LEA or AEA or any other public agency of its responsibility to ensure that children with disabilities who need instructional materials in accessible formats, but who are not included under the definition of persons who are blind or visually impaired or other persons with print disabilities in paragraph 41.210(4)*"a"* or who need materials that cannot be produced from NIMAS files, receive those instructional materials in a timely manner, as defined in paragraph 41.172(1)*"b."*

41.210(3) *Preparation and delivery of files.* Because the state chooses to coordinate with the NIMAC, an AEA, an LEA, or any other public agency must:

a. As part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials, enter into a written contract with the publisher of the print instructional materials to:

(1) Require the publisher to prepare and, on or before delivery of the print instructional materials, provide to NIMAC electronic files containing the contents of the print instructional materials using the NIMAS; or

(2) Purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats.

b. Provide instructional materials to persons who are blind or visually impaired or other persons with print disabilities in a timely manner.

41.210(4) *Definitions.* The following definitions apply to this rule and rule 281— 41.172(256B,34CFR300), and apply to each state and LEA, regardless of whether the state or LEA chooses to coordinate with the NIMAC:

a. "Persons who are blind or visually impaired or other persons with print disabilities" means children served under this chapter who may qualify to receive books and other publications produced in specialized formats in accordance with 2 U.S.C. 135a and 36 CFR 701.6. Persons who may receive material in specialized formats include persons who are blind, who have visual disabilities, who have certain physical disabilities, or who have reading disabilities resulting from organic dysfunction as those terms are defined in 36 CFR 701.6(b)(1) and who have obtained certification from a "competent authority" as defined in 36 CFR 701.6(b)(2).

b. "National Instructional Materials Access Center" or "NIMAC" means the center established pursuant to Section 674(e) of the Act.

c. "National Instructional Materials Accessibility Standard" or "NIMAS" has the meaning given the term in Section 674(e)(3)(B) of the Act.

d. "Print instructional materials" has the meaning given the term in Section 674(e)(3)(C) of the Act.

e. "Specialized formats" has the meaning given the term in Section 674(e)(3)(D) of the Act.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.211(256B,34CFR300) Information for department. Each public agency will provide the department with information necessary to enable the department to carry out its duties under Part B of the Act and this chapter, including, with respect to 34 CFR Section 300.157, information relating to the performance of children with disabilities participating in programs carried out under Part B of the Act. This information, including such quantitative and qualitative data as the department may demand, is to be submitted in a manner and at a time determined by the department. Failure to submit timely and accurate information may be considered by the department in making the determinations under rule 281—41.603(256B,34CFR300) or in taking any other action to enforce Part B of the Act or this chapter.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.212(256B,34CFR300) Public information. Each public agency must make available to parents of children with disabilities and to the general public all documents relating to the eligibility of the agency under Part B of the Act.

281—41.213(256B,34CFR300) Records regarding migratory children with disabilities. Each AEA or LEA must cooperate in the Secretary's efforts under Section 1308 of the ESEA to ensure the linkage of records pertaining to migratory children with disabilities for the purpose of electronically exchanging, among the states, health and educational information regarding those children.

281—41.214 to **41.219** Reserved.

281—41.220(256B,34CFR300) Exception for prior local plans.

41.220(1) *General.* If an AEA or LEA or a state agency described in rule 281—41.228(256B,34CFR300) has on file with the SEA policies and procedures that demonstrate that the AEA or LEA or state agency meets any requirement of rule 281—41.200(256B,34CFR300), including any policies and procedures filed under Part B of the Act as in effect before December 3, 2004, the SEA must consider the AEA or LEA or state agency to have met that requirement for purposes of receiving assistance under Part B of the Act.

41.220(2) *Modification made by an AEA or LEA or state agency.* Subject to subrule 41.220(3), policies and procedures submitted by an LEA or a state agency remain in effect until the AEA or LEA or state agency submits to the SEA the modifications that the AEA or LEA or state agency determines are necessary.

41.220(3) *Modifications required by the SEA.* The SEA may require an AEA or LEA or a state agency to modify its policies and procedures, but only to the extent necessary to ensure the LEA's or state agency's compliance with Part B of the Act or state law, if:

a. After December 3, 2004, the effective date of the Individuals with Disabilities Education Improvement Act of 2004, the applicable provisions of the Act, or the regulations developed to carry out the Act, are amended;

b. There is a new interpretation of an applicable provision of the Act by federal or state courts; or

c. There is an official finding of noncompliance with federal or state law or regulations.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.221(256B,34CFR300) Notification of AEA or LEA or state agency in case of ineligibility. If the state determines that an AEA or LEA or state agency is not eligible under Part B of the Act, then the state must notify the AEA or LEA or state agency of that determination and provide the AEA or LEA or state agency with reasonable notice and an opportunity for a hearing. This hearing shall not be considered a contested case under Iowa Code chapter 17A.

281—41.222(256B,34CFR300) AEA or LEA and state agency compliance.

41.222(1) *General.* If the state, after reasonable notice and an opportunity for a hearing, finds that an AEA or LEA or state agency that has been determined to be eligible under this chapter is failing to comply with any requirement described in rules 281—41.201(256B,34CFR300) to 281—41.213(256B,34CFR300), the state must reduce or must not provide any further payments to the AEA or LEA or state agency until the state is satisfied that the AEA or LEA or state agency is complying with that requirement.

41.222(2) *Notice requirement.* Any state agency or AEA or LEA in receipt of a notice described in subrule 41.222(1), by means of public notice, must take the measures necessary to bring the pendency of an action pursuant to this rule to the attention of the public within the jurisdiction of the agency.

41.222(3) *Consideration.* In carrying out its responsibilities under this rule, the state must consider any decision resulting from a hearing held under rules 281—41.511(256B,34CFR300) to 281—41.533(256B,34CFR300) that is adverse to the AEA or LEA or state agency involved in the decision.

281—41.223(256B,34CFR300) Joint establishment of eligibility.

41.223(1) *General.* The state may require an AEA or LEA to establish its eligibility jointly with another AEA or LEA if the state determines that the AEA or LEA will be ineligible because the agency will not be able to establish and maintain programs of sufficient size and scope to effectively meet the needs of children with disabilities.

41.223(2) Reserved.

41.223(3) *Amount of payments.* If the state requires the joint establishment of eligibility under subrule 41.223(1), the total amount of funds made available to the affected AEAs or LEAs must be equal to the sum of the payments that each AEA or LEA would have received under rule 281—41.705(256B,34CFR300) if the agencies were eligible for those payments.

281—41.224(256B,34CFR300) Requirements for jointly establishing eligibility.

41.224(1) *Requirements for AEAs or LEAs in general.* AEAs or LEAs that establish joint eligibility under this rule must:

a. Adopt policies and procedures that are consistent with the state's policies and procedures under rules 281—41.101(256B,34CFR300) to 281—41.163(256B,34CFR300) and 281—41.165(256B,34CFR300) to 281—41.187(256B); and

b. Be jointly responsible for implementing programs that receive assistance under Part B of the Act.

41.224(2) *Requirements for educational service agencies in general.* If an educational service agency is required by state law to carry out programs under Part B of the Act, the joint responsibilities given to AEAs or LEAs under Part B of the Act:

a. Do not apply to the administration and disbursement of any payments received by that educational service agency; and

b. Must be carried out only by that educational service agency.

41.224(3) *Additional requirement.* Notwithstanding any other provision of rule 281—41.223(256B,34CFR300) and this rule, an educational service agency must provide for the education of children with disabilities in the least restrictive environment, as required by this chapter.

281—41.225 Reserved.

281—41.226(256B,34CFR300) Early intervening services.

41.226(1) *General.* An AEA or LEA may use no more than 15 percent of the amount the AEA or LEA receives under Part B of the Act for any fiscal year, less any amount reduced by the AEA or LEA pursuant to rule 281—41.205(256B,34CFR300), if any, in combination with other amounts, which may include amounts other than education funds, to develop and implement coordinated, early intervening services, which may include interagency financing structures, for students in kindergarten through grade 12, with a particular emphasis on students in kindergarten through grade 3, who are not currently identified as needing special education or related services, but who need additional academic and behavioral support to succeed in a general education environment.

41.226(2) *Activities.* In implementing coordinated, early intervening services under this rule, an AEA or LEA may carry out activities that include:

a. Professional development, which may be provided by other entities, for teachers and other school staff to enable such personnel to deliver scientifically based academic and behavioral interventions, including scientifically based literacy instruction and, where appropriate, instruction on the use of adaptive and instructional software; and

b. Providing educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction.

41.226(3) *Construction.* Nothing in this rule shall be construed to either limit or create a right to FAPE under Part B of the Act or to delay appropriate evaluation of a child suspected of having a disability.

41.226(4) *Reporting: in general.* Each AEA or LEA that develops and maintains coordinated, early intervening services under this rule must annually report to the SEA on:

a. The number of children served under this rule who received early intervening services; and

b. The number of children served under this rule who received early intervening services and subsequently receive special education and related services under Part B of the Act during the preceding two-year period.

41.226(5) *Reporting: disproportionality.* If an LEA is required to reserve the maximum amount available under this rule for early intervening services because of a determination of significant disproportionality under rule 281—41.646(256B,34CFR300), that LEA must make additional reports on the use of funds under this rule and rule 281—41.646(256B,34CFR300), as required by the SEA.

41.226(6) *Coordination with ESEA.* Funds made available to carry out this rule may be used to carry out coordinated, early intervening services aligned with activities funded by and carried out under the ESEA if those funds are used to supplement, and not supplant, funds made available under the ESEA for the activities and services assisted under this rule.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.227 Reserved.

281—41.228(256B,34CFR300) State agency eligibility. Any state agency that desires to receive a subgrant for any fiscal year under rule 281—41.705(256B,34CFR300) is to meet the provisions of 34 CFR Section 300.228.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.229(256B,34CFR300) Disciplinary information.

41.229(1) *Requirement of transmittal of disciplinary records.* Pursuant to Iowa Code section 279.9A, the state requires that a public agency include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and transmit the statement to the same extent that the disciplinary information is included in, and transmitted with, the student records of children without disabilities.

41.229(2) *Contents of transmittal.* The transmittal shall include an accurate record of any suspension or expulsion actions taken and the basis for those actions taken. It may include any other information that is relevant to the safety of the child and other individuals involved with the child, to the extent that information is transmitted for children without disabilities.

41.229(3) *Additional contents of transmittal.* If the child transfers from one school to another, the transmission of any of the child's records must include both the child's current IEP and any statement of current or previous disciplinary action that has been taken against the child.

41.229(4) *When transmittal must occur.* Pursuant to Iowa Code section 279.9A, a transmittal of records under this rule shall occur if requested by officials of the school to which the student seeks to transfer or has transferred.

41.229(5) *Additional state law requirement.* Pursuant to Iowa Code section 279.9A, this rule applies also to accredited nonpublic schools, as well as AEAs.

281—41.230(256B,34CFR300) SEA flexibility. The department reserves to itself the flexibility provided by 34 CFR Section 300.230.

281—41.231 to **41.299** Reserved.

DIVISION V
EVALUATION, ELIGIBILITY, IEPs, AND PLACEMENT DECISIONS

281—41.300(256B,34CFR300) Parental consent and participation.

41.300(1) *Parental consent for initial evaluation.*

a. General.

(1) The public agency proposing to conduct an initial evaluation to determine if a child qualifies as a child with a disability under this chapter must, after providing notice consistent with rules

281—41.503(256B,34CFR300) and 281—41.504(256B,34CFR300), obtain informed consent, consistent with rule 281—41.9(256B,34CFR300), from the parent of the child before conducting the evaluation.

(2) Parental consent for an initial evaluation must not be construed as consent for initial provision of special education and related services.

(3) The public agency must make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability.

b. Special rule: initial evaluation for a child who is a ward of the state and not residing with a parent. For initial evaluations only, if the child is a ward of the state and is not residing with the child's parent, the public agency is not required to obtain informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability if:

(1) Despite reasonable efforts to do so, the public agency cannot discover the whereabouts of the parent of the child;

(2) The rights of the parents of the child have been terminated in accordance with state law; or

(3) The rights of the parent to make educational decisions have been subrogated by a judge in accordance with state law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.

c. Parental refusal to provide consent for initial evaluation.

(1) If the parent of a child enrolled in public school or seeking to be enrolled in public school does not provide consent for initial evaluation under paragraph 41.300(1)*"a,"* or the parent fails to respond to a request to provide consent, the public agency may, but is not required to, pursue the initial evaluation of the child by utilizing the procedural safeguards in this chapter, including the mediation procedures under rule 281—41.506(256B,34CFR300) or the due process procedures under rules 281—41.507(256B,34CFR300) to 281—41.516(256B,34CFR300), if appropriate, except to the extent inconsistent with state law relating to such parental consent.

(2) The public agency does not violate its obligation under rules 281—41.111(256B,34CFR300) and 281—41.301(256B,34CFR300) to 281—41.311(256B,34CFR300) if it declines to pursue the evaluation under subparagraph 41.300(1)*"c"*(1).

41.300(2) *Parental consent for services.*

a. A public agency that is responsible for making FAPE available to a child with a disability must obtain informed consent from the parent of the child before the initial provision of special education and related services to the child.

b. The public agency must make reasonable efforts to obtain informed consent from the parent for the initial provision of special education and related services to the child.

c. If the parent of a child fails to respond to a request for, or refuses to consent to, the initial provision of special education and related services, the public agency:

(1) May not use the procedural safeguards in this chapter, including the mediation procedures rule 281—41.506(256B,34CFR300) or the due process procedures under rules 281—41.507(256B,34CFR300) through 281—41.516(256B,34CFR300) in order to obtain agreement or a ruling that the services may be provided to the child;

(2) Will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with the special education and related services for which the parent refuses to or fails to provide consent; and

(3) Is not required to convene an IEP team meeting or develop an IEP under rules 281—41.320(256B,34CFR300) and 281—41.324(256B,34CFR300) for the child.

d. If, at any time subsequent to the initial provision of special education and related services, the parent of a child revokes consent in writing for the continued provision of special education and related services, the public agency:

(1) May not continue to provide special education and related services to the child, but must provide prior written notice in accordance with rule 281—41.503(256B,34CFR300) before ceasing the provision of special education and related services;

(2) May not use the procedural safeguards in this chapter, including the mediation procedures rule 281—41.506(256B,34CFR300) or the due process procedures under rules 281—41.507(256B,34CFR300)

through 281—41.516(256B,34CFR300) in order to obtain agreement or a ruling that the services may be provided to the child;

(3) Will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with further special education and related services; and

(4) Is not required to convene an IEP team meeting or develop an IEP under rules 281—41.320(256B,34CFR300) and 281—41.324(256B,34CFR300) for the child for further provision of special education and related services.

41.300(3) *Parental consent for reevaluations.*

a. General. Subject to paragraph 41.300(3)*"b"*:

(1) Each public agency must obtain informed parental consent, in accordance with paragraph 41.300(1)*"a,"* prior to conducting any reevaluation of a child with a disability.

(2) If the parent refuses to consent to the reevaluation, the public agency may, but is not required to, pursue the reevaluation by using the consent override procedures described in paragraph 41.300(1)*"c."*

(3) The public agency does not violate its obligation under rules 281—41.111(256B,34CFR300) and 281—41.301(256B,34CFR300) to 281—41.311(256B,34CFR300) if it declines to pursue the evaluation or reevaluation.

b. Exception. The informed parental consent described in paragraph 41.300(3)*"a"* need not be obtained if the public agency can demonstrate that:

(1) It made reasonable efforts to obtain such consent; and

(2) The child's parent has failed to respond.

41.300(4) *Other consent requirements.*

a. When parental consent not required. Parental consent is not required before:

(1) A review of existing data as part of an evaluation or a reevaluation; or

(2) Administration of a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children.

b. Additional consent requirements. In addition to the parental consent requirements described in subrules 41.300(1) through 41.300(3), the state may require parental consent for other services and activities under Part B of the Act and of this chapter if it ensures that each public agency in the state establishes and implements effective procedures to ensure that a parent's refusal to consent does not result in a failure to provide the child with FAPE.

c. Limitation on public agency's use of failure to give consent. A public agency may not use a parent's refusal to consent to one service or activity under subrules 41.300(1) through 41.300(3) or paragraph 41.300(4)*"b"* to deny the parent or child any other service, benefit, or activity of the public agency, except as required by this chapter.

d. Children who are home schooled or placed by their parents in private schools.

(1) If a parent of a child who is home schooled or placed in a private school by the parents at their own expense does not provide consent for the initial evaluation or the reevaluation, or the parent fails to respond to a request to provide consent, the public agency may not use the consent override procedures described in paragraphs 41.300(1)*"c"* and 41.300(3)*"a"*; and

(2) The public agency is not required to consider the child as eligible for services under rules 281—41.132(256B,34CFR300) to 281—41.144(256B,34CFR300).

e. Documenting reasonable efforts. To meet the reasonable efforts requirement in subparagraph 41.300(1)*"a"*(3), subparagraph 41.300(1)*"b"*(1), paragraph 41.300(2)*"b,"* and subparagraph 41.300(3)*"b"*(1), the public agency must document its attempts to obtain parental consent using the procedures in subrule 41.322(4).

41.300(5) *Parent participation.* The identification process is to include interactions with the individual, the individual's parents, school personnel, and others having specific responsibilities for or knowledge of the individual. AEA and LEA personnel will seek active parent participation throughout the process, directly communicate with parents, and encourage parents to participate at all decision points.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.301(256B,34CFR300) Full and individual initial evaluations.

41.301(1) *General.* Each public agency must conduct a full and individual initial evaluation, in accordance with rules 281—41.304(256B,34CFR300) to 281—41.306(256B,34CFR300), before the initial provision of special education and related services to a child with a disability under this chapter.

41.301(2) *Request for initial evaluation.* Consistent with the consent requirements in rule 281—41.300(256B,34CFR300), either a parent of a child or a public agency may initiate a request for an initial evaluation to determine if the child is a child with a disability.

41.301(3) *Procedures for initial evaluation.* The initial evaluation:

a. Must be conducted within 60 calendar days of receiving parental consent for the evaluation;

b. Must consist of procedures:

(1) To determine if the child is a child with a disability under this chapter; and

(2) To determine the educational needs of the child.

41.301(4) *Exception.* The time frame described in paragraph 41.301(3)*"a"* does not apply to a public agency if:

a. The parent of a child repeatedly fails or refuses to produce the child for the evaluation; or

b. A child enrolls in a school of another public agency after the relevant time frame in paragraph 41.301(3)*"a"* has begun, and prior to a determination by the child's previous public agency as to whether the child is a child with a disability under this chapter.

41.301(5) *Applicability of exception in paragraph 41.301(4)"b."* The exception in paragraph 41.301(4)*"b"* applies only if the subsequent public agency is making sufficient progress to ensure a prompt completion of the evaluation and the parent and the subsequent public agency agree to a specific time when the evaluation will be completed.

41.301(6) *Content of full and individual initial evaluation.* The purpose of the evaluation is to determine the educational interventions that are required to resolve the presenting problem, behaviors of concern, or suspected disability, including whether the educational interventions are special education. An evaluation shall include:

a. An objective definition of the presenting problem, behaviors of concern, or suspected disability.

b. Analysis of existing information about the individual, as described in paragraph 41.305(1)*"a."*

c. Identification of the individual's strengths or areas of competence relevant to the presenting problem, behaviors of concern, or suspected disability.

d. Collection of additional information needed to design interventions intended to resolve the presenting problem, behaviors of concern, or suspected disability, including, if appropriate, assessment or evaluation of health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, adaptive behavior and motor abilities.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.302(256B,34CFR300) Screening for instructional purposes is not evaluation. The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

281—41.303(256B,34CFR300) Reevaluations.

41.303(1) *General.* A public agency must ensure that a reevaluation of each child with a disability is conducted in accordance with rules 281—41.304(256B,34CFR300) to 281—41.311(256B,34CFR300):

a. If the public agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or

b. If the child's parent or teacher requests a reevaluation.

41.303(2) *Limitation.* A reevaluation conducted under subrule 41.303(1):

a. May occur not more than once a year, unless the parent and the public agency agree otherwise; and

b. Must occur at least once every three years, unless the parent and the public agency agree that a reevaluation is unnecessary.

281—41.304(256B,34CFR300) Evaluation procedures.

41.304(1) *Notice.* The public agency must provide notice to the parents of a child with a disability, in accordance with rule 281—41.503(256B,34CFR300), that describes any evaluation procedures the agency proposes to conduct.

41.304(2) *Conduct of evaluation.* In conducting the evaluation, the public agency must:

a. Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining:

(1) Whether the child is a child with a disability under this chapter; and

(2) The content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities);

b. Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and

c. Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

41.304(3) *Other evaluation procedures.* Each public agency must ensure that:

a. Assessments and other evaluation materials used to assess a child under this chapter:

(1) Are selected and administered so as not to be discriminatory on a racial or cultural basis;

(2) Are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer;

(3) Are used for the purposes for which the assessments or measures are valid and reliable;

(4) Are administered by trained and knowledgeable personnel; and

(5) Are administered in accordance with any instructions provided by the producer of the assessments.

b. Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

c. Assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

d. The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

e. Assessments of children with disabilities who transfer from one public agency to another public agency in the same school year are coordinated with those children's prior and subsequent schools, as necessary and as expeditiously as possible, consistent with paragraph 41.301(4)*"b"* and subrule 41.301(5), to ensure prompt completion of full evaluations.

f. The evaluation of each child with a disability under rules 281—41.304(256B,34CFR300) to 281—41.306(256B,34CFR300) is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.

g. Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.305(256B,34CFR300) Additional requirements for evaluations and reevaluations.

41.305(1) *Review of existing evaluation data.* As part of an initial evaluation, if appropriate, and as part of any reevaluation under this chapter, the IEP team and other qualified professionals, as appropriate, must:

a. Review existing evaluation data on the child, including:

(1) Evaluations and information provided by the parents of the child;

(2) Current classroom-based, local, or state assessments, and classroom-based observations; and

(3) Observations by teachers and related services providers; and

b. On the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine:

(1) Whether the child is a child with a disability, as defined in this chapter, and the educational needs of the child or, in the case of a reevaluation of a child, whether the child continues to have such a disability, and the educational needs of the child;

(2) The present levels of academic achievement and related developmental needs of the child;

(3) Whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and

(4) Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum.

41.305(2) *Conduct of review.* The group described in subrule 41.305(1) may conduct its review without a meeting.

41.305(3) *Source of data.* The public agency must administer such assessments and other evaluation measures as may be needed to produce the data identified under subrule 41.305(1).

41.305(4) *Requirements if additional data are not needed.*

a. If the IEP team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability or to determine the child's educational needs, the public agency must notify the child's parents of:

(1) The determination and the reasons for the determination; and

(2) The right of the parents to request an assessment to determine whether the child continues to be a child with a disability and to determine the child's educational needs.

b. The public agency is not required to conduct the assessment described in subparagraph 41.305(4)*"a"*(2) unless requested to do so by the child's parents.

41.305(5) *Evaluations before change in eligibility.*

a. Except as provided in paragraph 41.305(5)*"b,"* a public agency must evaluate a child with a disability in accordance with these rules before determining that the child is no longer a child with a disability.

b. The evaluation described in paragraph 41.305(5)*"a"* is not required before the termination of a child's eligibility under this chapter due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for FAPE under state law.

c. For a child whose eligibility terminates under circumstances described in paragraph 41.305(5)*"b,"* a public agency must provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

41.305(6) *At no cost to parent.* Evaluations or reevaluations under this chapter, including any outside consultations or evaluations, shall be at no cost to the parent. AEAs or LEAs may access a parent's private insurance or public benefits or insurance, however, provided that a parent gives informed consent consistent with rule 281—41.9(256B,34CFR300) and subrules 41.154(4) and 41.154(5).

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.306(256B,34CFR300) Determination of eligibility.

41.306(1) *General.* Upon completion of the administration of assessments and other evaluation measures:

a. A group of qualified professionals and the parent of the child determine whether the child is a child with a disability, as defined in this chapter, in accordance with subrule 41.306(3) and the educational needs of the child; and

b. The public agency provides a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.

41.306(2) *Special rule for eligibility determination.* A child must not be determined to be a child with a disability under this chapter:

a. If the determinant factor for that determination is:

(1) Lack of appropriate instruction in reading, including the essential components of reading instruction, as defined in Section 1208(3) of the ESEA, as such section was in effect on the day before the date of enactment of the Every Student Succeeds Act (December 9, 2015);

(2) Lack of appropriate instruction in math; or

(3) Limited English proficiency; and

b. If the child does not otherwise meet the eligibility criteria under this chapter.

41.306(3) *Procedures for determining eligibility and educational need.*

a. In interpreting evaluation data for the purpose of determining if a child is a child with a disability under this chapter, and the educational needs of the child, each public agency must:

(1) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior; and

(2) Ensure that information obtained from all of these sources is documented and carefully considered.

b. If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child in accordance with these rules.

c. All determinations of eligibility must be based on the individual's disability (progress and discrepancy) and need for special education.

41.306(4) *Director's certification.* If a child is determined to be an eligible individual pursuant to these rules, the AEA director of special education will certify the individual's entitlement for special education. A confidential record, subject to audit by the department, registering the name and required special education and related services of each eligible individual will be maintained by the AEA, and provision will be made for its periodic revision.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.307(256B,34CFR300) Specific learning disabilities.

41.307(1) *General.* The state adopts, consistent with rule 281—41.309(256B,34CFR300), criteria for determining whether a child is an eligible individual on the basis of a specific learning disability as defined in subrule 41.50(10). In addition, the criteria adopted by the state:

a. Require the use of a process based on the child's response to scientific, research-based intervention or the use of other alternative research-based procedures for determining whether a child has a specific learning disability, as defined in subrule 41.50(10); and

b. Prohibit the use of a severe discrepancy between intellectual ability and achievement for determining whether a child is an eligible individual on the basis of a specific learning disability.

41.307(2) *Consistency with state criteria.* A public agency must use the state criteria adopted pursuant to subrule 41.307(1) in determining whether a child is an eligible individual on the basis of a specific learning disability.

41.307(3) *Rule of construction: "Labelling."* Nothing in this rule or rules 281— 41.308(256B,34CFR300) to 281—41.311(256B,34CFR300) is to be construed as requiring children evaluated under these rules to be classified as having a specific learning disability, as long as the child is regarded as a child with a disability or an eligible individual under this chapter.

41.307(4) *Rule of construction: Use of rules 281—41.307(256B,34CFR300) to 281—41.310(256B,34CFR300).* Nothing in this rule or rule 281—41.308(256B,34CFR300) or 281—41.311(256B,34CFR300) is to be construed as limiting its applicability solely to determining whether a child is an eligible individual on the basis of a specific learning disability. The procedures, methods, etc. listed in this rule and rules 281—41.308(256B,34CFR300) and 281—41.310(256B,34CFR300) may be employed in evaluating any child suspected of being an eligible individual, if appropriate in the child's circumstances.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.308(256B,34CFR300) Additional group members. The determination of whether a child suspected of being an eligible individual due to the presence of a specific learning disability is a child with

a disability, as defined in this chapter, must be made by the child's parents and a team of qualified professionals, which must include the following persons:

41.308(1) *Required teachers.*

a. The child's general education teacher; or

b. If the child does not have a general education teacher, a general education teacher qualified to teach a child of his or her age; or

c. For a child of less than school age, an individual qualified by the SEA to teach a child of his or her age.

41.308(2) *Individual qualified to conduct diagnostic examinations.* At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or a remedial reading teacher.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.309(256B,34CFR300) Determining the existence of a specific learning disability.

41.309(1) *Required determinations.* The group described in rule 281—41.306(256B,34CFR300) may determine that a child has a specific learning disability, as defined in subrule 41.50(10), after considering the following three factors:

a. Lack of adequate achievement. The child does not achieve adequately for the child's age, grade-level expectations or such grade-level standards the SEA may choose to adopt in one or more of the following areas, when provided with learning experiences and instruction appropriate for the child's age or grade-level expectations or such grade-level standards the SEA may choose to adopt:

(1) Oral expression.
(2) Listening comprehension.
(3) Written expression.
(4) Basic reading skill.
(5) Reading fluency skills.
(6) Reading comprehension.
(7) Mathematics calculation.
(8) Mathematics problem solving.

b. Lack of adequate progress.

(1) The child does not make sufficient progress to meet age expectations, grade-level expectations, or such state-approved grade-level standards as the state may choose to adopt in one or more of the areas identified in paragraph 41.309(1)*"a"* when using a process based on the child's response to scientific, research-based intervention; or

(2) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, grade-level expectations, such state-approved grade-level standards as the state may choose to adopt, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments, consistent with rules 281—41.304(256B,34CFR300) and 281—41.305(256B,34CFR300).

c. Exclusionary factors. The group determines that its findings under paragraphs 41.309(1)*"a"* and 41.309(1)*"b"* are not primarily the result of:

(1) A visual, hearing, or motor disability;
(2) Intellectual disability;
(3) Emotional disturbance;
(4) Cultural factors;
(5) Environmental or economic disadvantage; or
(6) Limited English proficiency.

41.309(2) *Review of data.* To ensure that underachievement in a child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group must consider, as part of the evaluation described in rules 281—41.304(256B,34CFR300) to 281—41.306(256B,34CFR300):

a. Data that demonstrate that prior to, or as a part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and

b. Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parents.

41.309(3) *When consent required.* The public agency must promptly request parental consent to evaluate the child to determine if the child needs special education and related services and must adhere to the time frames described in rules 281—41.301(256B,34CFR300) and 281—41.303(256B,34CFR300):

a. If, prior to a referral, a child has not made adequate progress after an appropriate period of time when provided instruction, as described in paragraphs 41.309(2)*"a"* and *"b"*; and

b. Whenever a child is referred for an evaluation.

41.309(4) *Rule of construction.* Subparagraph 41.309(1)*"b"*(2) shall not be construed to require a child with a pattern of strengths and weaknesses in performance, achievement, or both, to be identified as an eligible individual, absent a determination that the child has a disability and needs special education and related services.

41.309(5) *Rule of construction.* A process by which a child's response to intervention is measured is a component of a full and individual evaluation and is not, considered alone, a full and individual evaluation, unless the response to intervention process contains all required elements of a full and individual evaluation under this chapter.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.310(256B,34CFR300) Observation.

41.310(1) *Observation required.* The public agency must ensure that the child is observed in the child's learning environment, including the regular classroom setting, to document the child's academic performance and behavior in the areas of difficulty.

41.310(2) *Who must observe.* The group described in paragraph 41.306(1)*"a,"* in determining whether a child has a specific learning disability, must decide to:

a. Use information from an observation in routine classroom instruction and monitoring of the child's performance that was done before the child was referred for an evaluation, consistent with rules 281—41.306(256B,34CFR300), 281—41.309(256B,34CFR300), 281—41.312(256B,34CFR300) and 281—41.313(256B,34CFR300); or

b. Have at least one member of the group described in paragraph 41.306(1)*"a"* conduct an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and parental consent, consistent with subrule 41.300(1), is obtained.

41.310(3) *Child less than school age or out of school.* In the case of a child of less than school age or out of school, a group member must observe the child in an environment appropriate for a child of that age. This subrule also applies to school-age children who must be evaluated during school breaks.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.311(256B,34CFR300) Specific documentation for the eligibility determination.

41.311(1) *Documentation required.* For a child suspected of having a specific learning disability, the documentation of the determination that the child is an eligible individual, as required in paragraph 41.306(1)*"b,"* must contain a statement of:

a. Whether the child has a specific learning disability;

b. The basis for making the determination, including an assurance that the determination has been made in accordance with paragraph 41.306(3)*"a"*;

c. The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning;

d. The educationally relevant medical findings, if any;

e. The determination that:

(1) The child does not achieve adequately for the child's age or to meet grade-level expectations or such grade-level standards the SEA may choose to adopt consistent with paragraph 41.309(1)*"a"*; and

(2) The child does not make sufficient progress for the child's age or to meet grade-level expectations or such grade-level standards the SEA may choose to adopt consistent with subparagraph 41.309(1)*"b"*(1); or the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to

the child's age or to meet grade-level expectations, such grade-level standards the SEA may choose to adopt, or intellectual development consistent with subparagraph 41.309(1)*"b"*(2);

f. The determination of the group concerning the effects of a visual, hearing, or motor disability; intellectual disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child's achievement level; and

g. If the child has participated in a process that assesses the child's response to scientific, research-based intervention:

(1) The instructional strategies used and the student-centered data collected; and

(2) The documentation that the child's parents were notified about:

1. The state's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;

2. Strategies for increasing the child's rate of learning; and

3. The parents' right to request an evaluation.

41.311(2) *Certification required.* Each group member must certify in writing whether the report reflects the member's conclusion. If it does not reflect the member's conclusion, the group member must submit a separate statement presenting the member's conclusions.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.312(256B,34CFR300) General education interventions. Each LEA, in conjunction with the AEA, shall attempt to resolve the presenting problem or behaviors of concern in the general education environment prior to conducting a full and individual evaluation. In circumstances when there is a suspicion that a child is an eligible individual under this chapter, the AEA or AEA in collaboration with the LEA will conduct a full and individual initial evaluation. Documentation of the rationale for such action will be included in the individual's educational record.

41.312(1) *Notice to parents.* Each LEA will provide general notice to parents on an annual basis about the provision of general education interventions that occur as a part of the agency's general program and that may occur at any time throughout the school year.

41.312(2) *Nature of general education interventions.* General education interventions will include consultation with special education support and instructional personnel. General education intervention activities will be documented and include measurable and goal-directed attempts to resolve the presenting problem or behaviors of concern, communication with parents, collection of data related to the presenting problem or behaviors of concern, intervention design and implementation, and systematic progress monitoring to measure the effects of interventions.

41.312(3) *Referral for full and individual initial evaluation.* If the referring problem or behaviors of concern are shown to be resistant to general education interventions or if interventions are demonstrated to be effective but need continued and substantial effort that may include the provision of special education and related services, the agency shall then conduct a full and individual initial evaluation.

41.312(4) *Parent may request evaluation at any time.* The parent of a child receiving general education interventions may request that the agency conduct a full and individual initial evaluation at any time during the implementation of such interventions.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.313(256B,34CFR300) Systematic problem-solving process.

41.313(1) *Definition.* When used by an AEA in its identification process, "systematic problem-solving" means a set of procedures that is used to examine the nature and severity of an educationally related problem. These procedures primarily focus on variables related to developing effective educationally related interventions.

41.313(2) *Parent participation in systematic problem-solving process.* Active parent participation is an integral aspect of the process and is solicited throughout.

41.313(3) *Components.* At a minimum, a systematic problem-solving process includes the following components.

a. Description of problem. The presenting problem or behavior of concern is described in objective, measurable terms that focus on alterable characteristics of the individual and the environment. The

individual and environment are examined through systematic data collection. The presenting problem or behaviors of concern are defined in a problem statement that describes the degree of discrepancy between the demands of the educational setting and the individual's performance.

b. Data collection and problem analysis. A systematic, data-based process for examining all that is known about the presenting problem or behaviors of concern is used to identify interventions that have a high likelihood of success. Data collected on the presenting problem or behaviors of concern are used to plan and monitor interventions. Data collected are to be relevant to the presenting problem or behaviors of concern and shall be collected in multiple settings using multiple sources of information and multiple data collection methods. Data collection procedures are to be individually tailored, valid, and reliable, and allow for frequent and repeated measurement of intervention effectiveness.

c. Intervention design and implementation. Interventions will be designed based on the preceding analysis, the defined problem, parent input, and professional judgments about the potential effectiveness of interventions. The interventions are to be described in an intervention plan that includes goals and strategies, a progress monitoring plan, a decision-making plan for summarizing and analyzing progress monitoring data, and responsible parties. Interventions will be implemented as developed and modified on the basis of objective data and with the agreement of the responsible parties.

d. Progress monitoring. Systematic progress monitoring will be conducted that includes regular and frequent data collection, analysis of individual performance across time, and modification of interventions as frequently as necessary based on systematic progress monitoring data.

e. Evaluation of intervention effects. The effectiveness of interventions will be evaluated through a systematic procedure in which patterns of individual performance are analyzed and summarized. Decisions regarding the effectiveness of interventions focus on comparisons with initial levels of performance.

41.313(4) *Rule of construction.* A systematic problem-solving process may be used for any child suspected of being an eligible individual, and nothing in this chapter nor in Part B of the Act is to be construed to limit the applicability of a systematic problem-solving process to children suspected of having a certain type of disability.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.314(256B,34CFR300) Progress monitoring and data collection.

41.314(1) *Evidence of progress in general education instruction.* Each public agency shall establish standards, consistent with those the department may establish, by which the adequacy of general education instruction, including the quality and quantity of data gathered, is assessed, and whether such data are sufficient in quantity and quality to make decisions under Part B of the Act and this chapter.

41.314(2) *Progress monitoring and determining eligibility.* Each public agency shall engage in progress monitoring of each individual's progress as the department may prescribe during the process of evaluating whether a child is an eligible individual and record such progress in any manner that the department may permit or prescribe. If the AEA or LEA serving an individual imposes additional standards for the monitoring of progress of individuals during the process of evaluation, personnel serving that individual are to comply with those additional requirements. The team determining the child's eligibility may increase the frequency with which the child's progress is monitored.

41.314(3) *Progress monitoring and eligible individuals.* Each public agency shall engage in progress monitoring of each eligible individual's progress as the department may prescribe and record such progress in any manner that the department may permit or require. If the AEA or LEA serving an eligible individual imposes additional requirements for the monitoring of progress of eligible individuals, personnel serving that individual will comply with those additional requirements. An IEP team may increase the frequency with which an eligible individual's progress is monitored.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.315 to **41.319** Reserved.

281—41.320(256B,34CFR300) Definition of individualized education program.

41.320(1) *General.* As used in this chapter, the term "individualized education program" or "IEP" means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with these rules, and that must include:

a. A statement of the child's present levels of academic achievement and functional performance, including:

(1) How the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children); or

(2) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;

b. A statement of measurable annual goals, including academic and functional goals designed to meet:

(1) The child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and

(2) Each of the child's other educational needs that result from the child's disability;

c. For children with disabilities who take alternate assessments aligned to alternate academic achievement standards, a description of benchmarks or short-term objectives;

d. A description of:

(1) How the child's progress toward meeting the annual goals described in paragraph 41.320(1)*"b"* will be measured; and

(2) When periodic reports on the progress the child is making toward meeting the annual goals, such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards, will be provided;

e. A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child:

(1) To advance appropriately toward attaining the annual goals;

(2) To be involved in and make progress in the general education curriculum in accordance with paragraph 41.320(1)*"a,"* and to participate in extracurricular and other nonacademic activities; and

(3) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this rule;

f. An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in paragraph 41.320(1)*"e"*;

g. A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on state and districtwide assessments consistent with Section 612(a)(16) of the Act; and, if the IEP team determines that the child must take an alternate assessment instead of a particular regular state or districtwide assessment of student achievement, a statement of why the child cannot participate in the regular assessment and why the particular alternate assessment selected is appropriate for the child; and

h. The projected date for the beginning of the services and modifications described in paragraph 41.320(1)*"e"* and the anticipated frequency, location, and duration of those services and modifications.

41.320(2) *Transition services.* Beginning not later than the first IEP to be in effect when the child turns 14, or younger if determined appropriate by the IEP team, and updated annually, thereafter, the IEP must include:

a. Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and

b. The transition services, including courses of study, needed to assist the child in reaching those goals.

41.320(3) *Transfer of rights at age of majority.* Beginning not later than one year before the child reaches the age of majority under state law, the IEP must include a statement that the child has been

informed of the child's rights under Part B of the Act, if any, that will transfer to the child on reaching the age of majority under rule 281—41.520(256B,34CFR300).

41.320(4) *Construction.* Nothing in this rule shall be construed to require:

a. That additional information be included in a child's IEP beyond what is explicitly required in Section 614 of the Act; or

b. The IEP team to include information under one component of a child's IEP that is already contained under another component of the child's IEP.

41.320(5) *Special considerations.* The IEP, or an associated document, must contain the answers to the questions contained in subrule 41.116(4).

41.320(6) *Prohibited practices.* An IEP shall not include practices that are precluded by constitution, statute, this chapter, or any other applicable law.

41.320(7) *Clearing classrooms.* An IEP or a behavioral intervention plan shall not include provisions for clearing all other students out of the regular classroom in order to calm the child requiring special education or the child for whom a behavioral intervention plan has been implemented except as provided in Iowa Code section 279.51A.

If a student whose behavior caused a classroom clearance has an IEP or a behavioral intervention plan, the classroom teacher shall call for and be included in a review and potential revision of the student's IEP or behavioral intervention plan by the student's IEP team. The AEA, in collaboration with the school district, may, when the parent or guardian meets with the IEP team during the review or reevaluation of the student's IEP, inform the parent or guardian of individual or family counseling services available in the area. The public agencies must provide those services if those services are necessary for a FAPE.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.321(256B,34CFR300) IEP team.

41.321(1) *General.* The public agency must ensure that the IEP team for each child with a disability includes the following:

a. The parents of the child;

b. At least one regular education teacher of the child if the child is, or may be, participating in the regular education environment;

c. At least one special education teacher of the child or, where appropriate, at least one special education provider of the child;

d. A representative of the public agency who:

(1) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;

(2) Is knowledgeable about the general education curriculum; and

(3) Is knowledgeable about the availability of resources of the public agency.

e. An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs 41.321(1)*"b"* to *"f"*;

f. At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and

g. Whenever appropriate, the child with a disability.

41.321(2) *Transition services participants.*

a. In accordance with paragraph 41.321(1)*"g,"* the public agency must invite a child with a disability to attend the child's IEP team meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals under subrule 41.320(2).

b. If the child does not attend the IEP team meeting, the public agency must take other steps to ensure that the child's preferences and interests are considered.

c. To the extent appropriate, with the consent of the parents or a child who has reached the age of majority, in implementing the requirements of paragraph 41.321(2)*"a,"* the public agency must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

41.321(3) *Determination of knowledge and special expertise.* The determination of the knowledge or special expertise of any individual described in paragraph 41.321(1)*"f"* must be made by the party (parents or public agency) who invited the individual to be a member of the IEP team.

41.321(4) *Designating a public agency representative.* A public agency may designate a public agency member of the IEP team to also serve as the agency representative, if the criteria in paragraph 41.321(1)*"d"* are satisfied.

41.321(5) *IEP team attendance.*

a. A member of the IEP team described in paragraphs 41.321(1)*"b"* to *"e"* is not required to attend an IEP team meeting, in whole or in part, if the parent of a child with a disability and the public agency agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.

b. A member of the IEP team described in paragraph 41.321(5)*"a"* may be excused from attending an IEP team meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if:

(1) The parent, in writing, and the public agency consent to the excusal; and

(2) The member submits, in writing to the parent and the IEP team, input into the development of the IEP prior to the meeting.

41.321(6) *Initial IEP team meeting for child under Part C.* In the case of a child who was previously served under Part C of the Act, an invitation to the initial IEP team meeting must, at the request of the parent, be sent to the Part C service coordinator or other representatives of the Part C system to assist with the smooth transition of services.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.322(256B,34CFR300) Parent participation.

41.322(1) *Public agency responsibility—general.* Each public agency must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP team meeting or are afforded the opportunity to participate, including:

a. Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and

b. Scheduling the meeting at a mutually agreed-upon time and place.

41.322(2) *Information provided to parents.*

a. The notice required under paragraph 41.322(1)*"a"* must:

(1) Indicate the purpose, time, and location of the meeting and who will be in attendance (name and position); and

(2) Inform the parents of the provisions in paragraph 41.321(1)*"f"* and subrule 41.321(3) relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the child and subrule 41.321(6) relating to the participation of the Part C service coordinator or other representatives of the Part C system at the initial IEP team meeting for a child previously served under Part C of the Act.

b. For a child with a disability, beginning not later than the first IEP to be in effect when the child turns 14, or younger if determined appropriate by the IEP team, the notice also must:

(1) Indicate that a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the child, in accordance with subrule 41.320(2), and that the agency will invite the student; and

(2) Identify any other agency that will be invited to send a representative.

41.322(3) *Other methods to ensure parent participation.* If neither parent can attend an IEP team meeting, the public agency must use other methods to ensure parent participation, including individual or conference telephone calls, consistent with rule 281—41.328(256B,34CFR300) related to alternative means of meeting participation.

41.322(4) *Conducting an IEP team meeting without a parent in attendance.* A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. In this case, the public agency must keep a record of its attempts to arrange a mutually agreed-upon time and place, including:

a. Detailed records of telephone calls made or attempted and the results of those calls;

b. Copies of correspondence sent to the parents and any responses received; and

c. Detailed records of visits made to the parent's home or place of employment and the results of those visits.

41.322(5) *Use of interpreters or other action, as appropriate.* The public agency must take whatever action is necessary to ensure that the parent understands the proceedings of the IEP team meeting, including arranging for an interpreter for parents who are deaf or hard of hearing or whose native language is other than English.

41.322(6) *Parent copy of child's IEP.* The public agency must give the parent a copy of the child's IEP at no cost to the parent.

41.322(7) *Rule of construction: "final" versus "draft" IEPs.* An agency shall not present a completed and finalized IEP to parents before there has been a full discussion with the parents regarding the eligible individual's need for special education and related services and the services the agency will provide to the individual. An agency may come prepared with evaluation findings, proposed statements of present levels of educational performance, proposed recommendations regarding annual goals or instructional objectives, and proposals concerning the nature of special education and related services to be provided. The agency shall inform the parents at the outset of the meeting that the proposals are only recommendations for review and discussion with the parents.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.323(256B,34CFR300) When IEPs must be in effect.

41.323(1) *General.* An IEP must be in effect before special education and related services are provided to eligible individuals. At the beginning of each school year, each public agency must have in effect, for each child with a disability within its jurisdiction, an IEP, as defined in rule 281—41.320(256B,34CFR300).

41.323(2) Reserved.

41.323(3) *Initial IEPs; provision of services.* Each public agency must ensure that:

a. A meeting to develop an IEP for a child is conducted within 30 days of a determination that the child needs special education and related services; and

b. As soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

41.323(4) *Accessibility of child's IEP to teachers and others.* Each public agency must ensure that:

a. The child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation; and

b. Each teacher and provider described in paragraph 41.323(4)*"a"* is informed of:

(1) His or her specific responsibilities related to implementing the child's IEP; and

(2) The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

41.323(5) *IEPs for children who transfer public agencies in the same state.* If a child with a disability who had an IEP that was in effect in a previous public agency in this state transfers to a new public agency in this state and enrolls in a new school within the same school year, the new public agency, in consultation with the parents, must provide FAPE to the child including services comparable to those described in the child's IEP from the previous public agency until the new public agency either:

a. Adopts the child's IEP from the previous public agency; or

b. Develops, adopts, and implements a new IEP that meets the applicable requirements in these rules.

41.323(6) *IEPs for children who transfer from another state.* If a child with a disability who had an IEP that was in effect in a previous public agency in another state transfers to a public agency in this state and enrolls in a new school within the same school year, the receiving public agency, in consultation with the parents, must provide the child with FAPE, including services comparable to those described in the child's IEP from the previous public agency, until the receiving public agency:

a. Conducts an evaluation pursuant to these rules if determined to be necessary by the receiving public agency; and

b. Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in these rules.

41.323(7) *Transmittal of records.* To facilitate the transition for a child described in subrules 41.323(5) and 41.323(6):

a. The receiving public agency in which the child enrolls must take all reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous public agency in which the child was enrolled, pursuant to 34 CFR Section 99.31(a)(2); and

b. The previous public agency in which the child was enrolled must take all reasonable steps to promptly respond to the request from the receiving public agency.

41.323(8) *Other.* An IEP of an eligible individual will be implemented immediately after an IEP team meeting. Exceptions to this would be when the meeting occurs during the summer or vacation period, unless the child requires services during that period, or where there are circumstances requiring a short delay (e.g., making transportation arrangements); however, there can be no undue delay in providing special education and related services to an eligible individual.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.324(256B,34CFR300) Development, review, and revision of IEP.

41.324(1) *Development of IEP.*

a. General. In developing each child's IEP, the IEP team must consider:

(1) The strengths of the child;

(2) The concerns of the parents for enhancing the education of their child;

(3) The results of the initial or most recent evaluation of the child; and

(4) The academic, developmental, and functional needs of the child.

b. Consideration of special factors. The IEP team must:

(1) In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior;

(2) In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP;

(3) In the case of a child who is blind or visually impaired, provide for instruction in braille and the use of braille unless the IEP team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media, including an evaluation of the child's future needs for instruction in braille or the use of braille, that instruction in braille or the use of braille is not appropriate for the child;

(4) Consider the communication needs of the child and, in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and

(5) Consider whether the child needs assistive technology devices and services, including accessible instructional materials.

c. Requirement with respect to regular education teacher. A regular education teacher of a child with a disability, as a member of the IEP team, must, to the extent appropriate, participate in the development of the IEP of the child, including the determination of:

(1) Appropriate positive behavioral interventions and supports and other strategies for the child; and

(2) Supplementary aids and services, program modifications, and support for school personnel consistent with paragraph 41.320(1)*"e."*

d. Agreement.

(1) In making changes to a child's IEP after the annual IEP team meeting for a school year, the parent of a child with a disability and the public agency may agree not to convene an IEP team meeting for the purposes of making those changes and instead may develop a written document to amend or modify the child's current IEP.

(2) If changes are made to the child's IEP in accordance with subparagraph 41.324(1)*"d"*(1), the public agency must ensure that the child's IEP team is informed of those changes.

(3) A public agency may only agree to make changes pursuant to subparagraph 41.324(1)*"d"*(1) concerning resources the public agency has the authority to commit.

e. Consolidation of IEP team meetings. To the extent possible, the public agency must encourage the consolidation of reevaluation meetings for the child and other IEP team meetings for the child.

f. Amendments. Changes to the IEP may be made either by the entire IEP team at an IEP team meeting or as provided in paragraph 41.324(1)*"d"* by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated.

41.324(2) *Review and revision of IEPs.*

a. General. Each public agency must ensure that, subject to paragraphs 41.324(2)*"b"* and *"c,"* the IEP team:

(1) Reviews the child's IEP periodically, but not less frequently than annually, to determine whether the annual goals for the child are being achieved; and

(2) Revises the IEP, as appropriate, to address the following:

1. Any lack of expected progress toward the annual goals described in paragraph 41.320(1)*"b,"* and in the general education curriculum, if appropriate;
2. The results of any reevaluation conducted under rule 281—41.303(256B,34CFR300);
3. Information about the child provided to or by the parents, as described in paragraph 41.305(1)*"b"*;
4. The child's anticipated needs; or
5. Other matters.

b. Consideration of special factors. In conducting a review of the child's IEP, the IEP team must consider the special factors described in paragraph 41.324(1)*"b."*

c. Requirement with respect to regular education teacher. A regular education teacher of the child, as a member of the IEP team, must, consistent with paragraph 41.324(1)*"c,"* participate in the review and revision of the IEP of the child.

41.324(3) *Failure to meet transition objectives.*

a. Participating agency failure. If a participating agency, other than the public agency, fails to provide the transition services described in the IEP in accordance with subrule 41.320(2), the public agency must reconvene the IEP team to identify alternative strategies to meet the transition objectives for the child set out in the IEP.

b. Construction. Nothing in this chapter relieves any participating agency, including a state vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to children with disabilities who meet the eligibility criteria of that agency.

41.324(4) *Children with disabilities in adult prisons.*

a. Requirements that do not apply. The following requirements do not apply to children with disabilities who are convicted as adults under state law and incarcerated in adult prisons:

(1) The requirements contained in Section 612(a)(16) of the Act and paragraph 41.320(1)*"g"* relating to participation of children with disabilities in general assessments.

(2) The requirements in subrule 41.320(2) relating to transition planning and transition services do not apply with respect to the children whose eligibility under Part B of the Act will end because of their age before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.

b. Modifications of IEP or placement.

(1) Subject to subparagraph 41.324(4)*"b"*(2), the IEP team of a child with a disability who is convicted as an adult under state law and incarcerated in an adult prison may modify the child's IEP or placement if the state has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

(2) The requirements in rule 281—41.320(256B,34CFR300) relating to IEPs and rule 281—41.114(256B,34CFR300) relating to LRE do not apply with respect to the modifications described in subparagraph 41.324(4)*"b"*(1).

41.324(5) *Interim IEP.* An IEP must be in effect before special education and related services are provided to an eligible individual. This does not preclude the development of an interim IEP that meets all the requirements of rule 281—41.320(256B,34CFR300) when the IEP team determines that it is necessary to temporarily provide special education and related services to an eligible individual as part of the evaluation process, before the IEP is finalized, to aid in determining the appropriate services for the individual. An interim IEP may also be developed when an eligible individual moves from one LEA to another and a copy of the current IEP is not available, or either the LEA or the parent believes that the current IEP is not appropriate or that additional information is needed before a final decision can be made regarding the specific special education and related services that are needed. IEP teams cannot use interim IEPs to circumvent the requirements of this division. It is essential that the temporary provision of service not become the final special education for the individual before the IEP is finalized. In order to ensure that this does not happen, IEP teams shall take the following actions:

a. Specific conditions and timelines. Develop an interim IEP for the individual that sets out the specific conditions and timelines for the temporary service. An interim IEP shall not be in place for more than 30 school days.

b. Parent agreement and involvement. Ensure that the parents agree to the interim service before it is carried out and that they are involved throughout the process of developing, reviewing, and revising the individual's IEP.

c. Complete evaluation and make judgments. Set a specific timeline for completing the evaluation and making judgments about the appropriate services for the individual.

d. Conduct meeting. Conduct an IEP meeting at the end of the trial period in order to finalize the individual's IEP.

41.324(6) *Rules of construction—instruction in braille.* For an eligible individual for whom instruction in braille is determined to be appropriate, as provided in subparagraph 41.324(1)*"b"*(3), that eligible individual is entitled to instruction in braille reading and writing that is sufficient to enable the individual to communicate with the same level of proficiency as an individual of otherwise comparable ability at the same grade level. Instruction in braille reading and writing may only be provided by a teacher with an endorsement to teach individuals who are blind or visually impaired.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.325(256B,34CFR300) Private school placements by public agencies.

41.325(1) *Developing IEPs.*

a. Before a public agency places a child with a disability in, or refers a child to, a private school or facility, the agency must initiate and conduct a meeting to develop an IEP for the child in accordance with these rules.

b. The agency must ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the agency must use other methods to ensure participation by the private school or facility, including individual or conference telephone calls.

41.325(2) *Reviewing and revising IEPs.*

a. After a child with a disability enters a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school or facility at the discretion of the public agency.

b. If the private school or facility initiates and conducts these meetings, the public agency must ensure that the parents and an agency representative are involved in any decision about the child's IEP and agree to any proposed changes in the IEP before those changes are implemented.

41.325(3) *Responsibility.* Even if a private school or facility implements a child's IEP, responsibility for compliance with this chapter remains with the public agency and the SEA.

281—41.326(256B,34CFR300) Other rules concerning IEPs.

41.326(1) *Children from birth to the age of three.* A fully developed IFSP is considered to have met the rules for an IEP for an eligible individual younger than the age of three.

41.326(2) *Support services only.* An IEP that satisfies the requirements of this chapter will be developed for eligible individuals who need only special education support services. The special education

support service specialist with knowledge in the area of need will have primary responsibility for recommending the need for support service, the type or model of service to be provided, and the amount of service to be provided; however, the determination that an individual is eligible for special education will be based on these rules. Attendance at IEP meetings for students will be determined in accordance with rule 281—41.325(256B,34CFR300).

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.327(256B,34CFR300) Educational placements. Consistent with subrule 41.501(3), each public agency must ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of the child.

281—41.328(256B,34CFR300) Alternative means of meeting participation. When conducting IEP team meetings and placement meetings under this chapter and carrying out administrative matters under Section 615 of the Act, such as scheduling, exchange of witness lists, and status conferences, the parent of a child with a disability and a public agency may agree to use alternative means of meeting participation, such as video conferences and conference calls.

281—41.329(256B,34CFR300) Family support mentoring program. If moneys are appropriated by the general assembly for a fiscal year for the purpose provided in this rule, the department will develop guidelines for a comprehensive family support mentoring program that meets the language and communication needs of families, or implement them if guidelines already exist. The department, in consultation with the Iowa school for the deaf, will administer the family support mentoring program for deaf or hard-of-hearing children.

41.329(1) *General department powers.* In establishing the family support mentoring program, the department may do all of the following, either directly or through a contract or agreement:

a. Hire a family support mentoring coordinator.

b. Utilize the parent resource created in Iowa Code section 256B.10(2) as well as other resources to provide families with information and guidance on language, communication, social, and emotional development of their child.

c. Recruit family support mentors to serve the needs of the family support mentoring program.

d. Train parents of a deaf or hard-of-hearing child to become family support mentors and train deaf or hard-of-hearing adults to become deaf or hard-of-hearing adult family support mentors.

e. Reach out to parents of children identified through the early hearing detection and intervention program in the Iowa department of health and human services and share information about the family support mentoring program services available to such parents.

f. Reach out to families referred by primary care providers, the area education agencies, and from other agencies that provide services to deaf or hard-of-hearing children.

g. Provide follow-up contact, as necessary, to establish services after initial referral.

h. Provide administrative oversight of any program established under this rule. Administrative oversight may include:

(1) Review of the qualifications of mentors;

(2) Alignment of family needs with paired mentors;

(3) Administration and analysis of satisfaction surveys; and

(4) Gathering demographic data of those served, such as ages and geographic location of children.

41.329(2) *Collaboration.*

a. The department shall work with the early hearing detection and intervention program in the Iowa department of health and human services, the Iowa school for the deaf, and the area education agencies when developing the guidelines.

b. The department shall coordinate family support mentoring activities with the early hearing detection and intervention program in the Iowa department of health and human services, the Iowa school for the deaf, the area education agencies, and nonprofit organizations that provide family support mentoring to parents with deaf or hard-of-hearing children.

41.329(3) *Nature of the program.*

a. A family support mentor may be any of the following:

(1) A parent who has experience raising a child who is deaf or hard-of-hearing and who has experience supporting the child's communication and language development.

(2) A deaf or hard-of-hearing adult who serves as a deaf or hard-of-hearing role model for the children and their families. Deaf or hard-of-hearing family support mentors may provide parents with an understanding of American sign language and English, including instructional philosophies for both, such as bilingual bimodal, listening and spoken language, total communication, and other philosophies, as well as other forms of communication, deaf culture, deaf community, and self-identity.

(3) The department will ensure mentors are qualified to provide supports that match the specific needs, experiences, and desires of families of children who are deaf or hard-of-hearing.

(4) Nothing in this rule shall be construed to create or require any credential or certification to serve as a family support mentor.

b. With the consent of the parent of the deaf or hard-of-hearing child, the family support mentoring program shall pair families based on the specific need, experience, or want of the parent of the deaf or hard-of-hearing child with another family mentor or deaf or hard-of-hearing adult mentor to provide support.

c. The family support mentoring program under this rule shall meet the following additional standards:

(1) Serve families of children who are deaf or hard-of-hearing from the child's birth through age 8, and may serve learners up to age 21;

(2) Provide services statewide, regardless of educational setting of the child;

(3) Make services available to families based on their specific need, experience, or want;

(4) Make services available to all children who are deaf or hard-of-hearing and their families, regardless of children's eligibility for other programs, including Section 504 of the Rehabilitation Act of 1973; and

(5) Not condition receipt of services under this rule upon eligibility under this chapter or 281—Chapter 120.

41.329(4) *Rule of construction.* This rule only applies in a fiscal year for which there is an appropriation by the general assembly.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.330 to **41.399** Reserved.

DIVISION VI
ADDITIONAL RULES RELATED TO AEAs, LEAs, AND SPECIAL EDUCATION

281—41.400(256B,34CFR300) Shared responsibility.

41.400(1) *General.* It is the responsibility of each eligible individual's resident LEA to provide or make provision for appropriate special education and related services to meet the requirements of state and federal statutes and rules. This responsibility may be met by one or more of the following: by each LEA acting for itself, by action of two or more LEAs through the establishment and maintenance of joint programs, by the AEA, by contract for services from approved public or private agencies offering the appropriate special education and related services, or by any combination of these options. The AEA shall support and assist LEAs in meeting their responsibilities for providing appropriate special education and related services. Part B of the Act and this chapter are binding on each public agency that has direct or delegated authority to provide special education and related services regardless of whether that agency is receiving funds under Part B of the Act.

41.400(2) *Shared responsibility between general education and special education.* General education and special education personnel share responsibility in providing appropriate educational programs for eligible individuals and in providing intervention and prevention services to individuals who are experiencing learning or adjustment problems.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.401(256B,34CFR300) Licensure (certification). Special education personnel shall meet the board of educational examiners' licensure (certification) and endorsement or recognition requirements for the position for which they are employed. In addition, personnel providing special education and related services who do not hold board of educational examiners' licensure (certification) or other recognition required by its board, and who, by the nature of their work, are required to hold a professional or occupational license, certificate or permit in order to practice or perform the particular duties involved in this state shall be required to hold a license, certificate, or permit.

281—41.402(256B,273,34CFR300) Authorized personnel. An agency is authorized to employ the following types of special education personnel, as appropriate to the special education and related services provided.

41.402(1) *Director of special education.* The director shall be responsible for the implementation of special education for eligible individuals pursuant to Iowa Code section 273.5 and these rules. The director's powers and duties shall include:

a. Properly identifying children requiring special education,

b. Ensuring that each child requiring special education in the area receives an appropriate special education program or service,

c. Assigning appropriate weights for each child requiring special education programs or services as provided in Iowa Code section 256B.9,

d. Supervising special education support personnel,

e. Providing each school district within the area served and the department with a special education weighted enrollment count, including the additional enrollment because of special education by the date specified in the Iowa Code,

f. Submitting to the department special education instructional and support program plans and applications, subject to the criteria listed in Iowa Code chapters 256B and 273, for approval by the deadline specified in the Iowa Code,

g. Coordinating the special education program within the area served, and

h. Reporting any violation of the Act or this chapter to the department for appropriate action.

41.402(2) *Special education instructional personnel.* Special education instructional personnel serve as teachers or instructional assistants at the preschool, elementary or secondary levels for eligible individuals.

41.402(3) *Special education support personnel.* The following positions are those of special education support personnel who provide special education and related services as stated in each definition. These personnel work under the direction of the director and may provide identification, evaluation, remediation, consultation, systematic progress monitoring, continuing education and referral services in accordance with appropriate licensure (certification) and endorsement or approval, or statement of professional recognition. They may also engage in data collection, applied research and program evaluation.

"Assistant director of special education" provides specific areawide administrative, supervisory and coordinating functions as delegated by the director.

"Audiologist" applies principles, methods and procedures for analysis of hearing functioning in order to plan, counsel, coordinate and provide intervention strategies and services for individuals who are deaf or hard of hearing.

"Consultant" is the special education instructional specialist who provides ongoing support to special and general education instructional personnel delivering services to eligible individuals. The consultant participates in the identification process and program planning of eligible individuals as well as working to attain the least restrictive environment appropriate for each eligible individual. The consultant demonstrates instructional procedures, strategies, and techniques; assists in the development of curriculum and instructional materials; assists in transition planning; and provides assistance in classroom management and behavioral intervention.

"Educational interpreter" interprets or translates spoken language into sign language commensurate with the receiver's language comprehension and interprets or translates sign language into spoken language.

"Educational strategist" provides assistance to general education classroom teachers in developing intervention strategies for individuals who are disabled in obtaining an education but can be accommodated in the general education classroom environment.

"Itinerant teacher" provides special education on an itinerant basis to eligible individuals.

"Occupational therapist" is a licensed health professional who applies principles, methods and procedures for analysis of, but not limited to, motor or sensorimotor functions to determine the educational significance of identified problem areas including fine motor manipulation, self-help, adaptive work skills, and play or leisure skills in order to provide planning, coordination, and implementation of intervention strategies and services for eligible individuals.

"Others (other special education support personnel)" may be employed as approved by the department and board of educational examiners.

"Physical therapist" is a licensed health professional who applies principles, methods and procedures for analysis of motor or sensorimotor functioning to determine the educational significance of motor or sensorimotor problems within, but not limited to, areas such as mobility and positioning in order to provide planning, coordination, and the implementation of intervention strategies and services for eligible individuals.

"School psychologist" assists in the identification of needs regarding behavioral, social, emotional, educational and vocational functioning of individuals; analyzes and integrates information about behavior and conditions affecting learning; consults with school personnel and parents regarding planning, implementing and evaluating individual and group interventions; provides direct services through counseling with parents, individuals and families; and conducts applied research related to psychological and educational variables affecting learning.

"School social worker" enhances the educational programs of individuals by assisting in identification and assessment of individuals' educational needs including social, emotional, behavioral and adaptive needs; provides intervention services including individual, group, parent and family counseling; provides consultation and planning; and serves as a liaison among home, school and community.

"Special education coordinator" facilitates the provision of special education within a specific geographic area.

"Special education media specialist" is a media specialist who facilitates the provision of media services to eligible individuals; provides consultation regarding media and materials used to support special education and related services for eligible individuals; and aids in the effective use of media by special education personnel.

"Special education nurse" is a professional registered nurse who assesses, identifies and evaluates the health needs of eligible individuals; interprets for the family and educational personnel how health needs relate to individuals' education; implements specific activities commensurate with the practice of professional nursing; and integrates health into the educational program.

"Speech-language pathologist" applies principles, methods and procedures for an analysis of speech and language comprehension and production to determine communicative competencies and provides intervention strategies and services related to speech and language development as well as disorders of language, voice, articulation and fluency.

"Supervisor" is the professional discipline specialist who provides for the development, maintenance, supervision, improvement and evaluation of professional practices and personnel within a specialty area.

"Work experience coordinator" plans and implements sequential secondary programs that provide on- and off-campus work experience for individuals requiring specially designed career exploration and vocational preparation when they are not available through the general education curriculum.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.403(256B) Paraprofessionals.

41.403(1) *Responsibilities.* Special education personnel may be employed to assist in the provision of special education and related services to children with disabilities and shall:

a. Complete appropriate preservice and ongoing staff development specific to the functions to be performed. The agency shall make provisions for or require such completion prior to the beginning of

service wherever practicable and within a reasonable time of the beginning of service where the preentry completion is not practicable.

b. Work under the supervision of professional personnel who are appropriately authorized to provide direct services in the same area where the paraprofessional provides assistive services.

c. Not serve as a substitute for appropriately authorized professional personnel.

41.403(2) *Authorized special education paraprofessionals.* Authorized special education paraprofessional roles include:

"Audiometrist" provides hearing screening and other specific hearing-related activities as assigned by the audiologist.

"Licensed practical nurse" shall be permitted to provide supportive and restorative care to an eligible individual in the school setting in accordance with the student's health plan when under the supervision of and as delegated by the registered nurse employed by the school district.

"Occupational therapy assistant" is licensed to perform occupational therapy procedures and related tasks that have been selected and delegated by the supervising occupational therapist.

"Others" as approved by the department, such as educational assistants described in 281—subrule 12.4(9).

"Para-educator" is a licensed educational assistant as defined in Iowa Code section 256.157.

"Physical therapist assistant" is licensed to perform physical therapy procedures and related tasks that have been selected and delegated by the supervising physical therapist.

"Psychology assistant" collects screening data through records review, systematic behavior observations, standardized interviews, group and individual assessment techniques; implements psychological intervention plans; and maintains psychological records under supervision of the school psychologist.

"Speech-language pathology assistant" provides certain language, articulation, voice and fluency activities as assigned by the supervising speech-language pathologist.

"Vision assistant" provides materials in the appropriate medium for use by individuals who are blind or visually impaired and performs other duties as assigned by the supervising teacher of the visually impaired.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.404(256B) Policies and procedures required of all public agencies.

41.404(1) *Policies.* Policies related to the provision of special education and related services shall be developed by each public agency and made available to the department upon request to include the following:

a. Policy to ensure the provision of a free appropriate public education.

b. Policy for the provision of special education and related services.

c. Policies to ensure the provision of special education and related services in the least restrictive environment.

d. Policy concerning the protection of confidentiality of personally identifiable information.

e. Policy concerning graduation requirements for eligible individuals.

f. Policy to ensure the participation of eligible individuals in districtwide assessment programs.

41.404(2) *Procedures.* Each public agency shall develop written procedures concerning the provision of special education and related services and shall make such procedures available to the department upon request and shall, at a minimum, include:

a. Procedures to ensure the provision of special education and related services.

b. Procedures for protecting the confidentiality of personally identifiable information.

c. Procedures for the graduation of eligible individuals.

d. Procedures for providing continuing education opportunities.

e. A procedure for its continued participation in the development of the eligible individual's IEP in out-of-state placements and shall outline a program to prepare for the eligible individual's transition back to the LEA before the eligible individual is placed out of state.

f. Procedures for ensuring procedural safeguards for children with disabilities and their parents.

g. Procedures to ensure the participation of eligible individuals in districtwide assessment programs.

41.404(3) *Rule of construction.* Any public agency will adopt any policy and procedure necessary to comply with Part B of the Act and this chapter, even if such a policy or procedure is not listed in this rule.
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.405 Reserved.

281—41.406(256B) Additional requirements of LEAs. The following provisions are applicable to each LEA that provides special education and related services.

41.406(1) *Policies.* Each LEA will develop written policies pertinent to the provision of special education and related services and make such policies available to the department upon request. At a minimum, such policies include those identified in subrule 41.404(1).

41.406(2) *Procedures.* Each LEA will develop written procedures pertinent to the provision of special education and related services and make such procedures available to the department upon request. At a minimum, such procedures include those identified in subrule 41.404(2).

41.406(3) *Plans.* Districtwide plans required by the department or federal programs and regulations will address eligible individuals and describe the relationship to or involvement of special education services.

41.406(4) *Nonpublic schools.* Each LEA shall provide special education and related services designed to meet the needs of nonpublic school students with disabilities residing in the jurisdiction of the agency in accordance with Iowa Code sections 256.12(2) and 273.2.
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.407(256B,273,34CFR300) Additional requirements of AEAs. The following provisions are applicable to each AEA that provides special education and related services.

41.407(1) *Policies.* Each AEA will develop written policies pertinent to the provision of special education and related services and will make such policies available to the department upon request. At a minimum, such policies will include those identified in paragraphs 41.404(1)*"a"* to *"e"* and the following:

a. Policy regarding appointment of surrogate parents.

b. Policy regarding provision of and payment for independent educational evaluations.

c. Policy to ensure the goal of providing a full educational opportunity to all eligible individuals.

d. Policy addressing the methods of ensuring services to eligible individuals.

e. Child find policy that ensures that individuals with disabilities who are in need of special education and related services are identified, located and evaluated.

f. A policy that meets the requirements of these rules for evaluating and determining eligibility of students who require special education, including a description of the extent to which the AEA system uses categorical designations. While AEAs may identify students as eligible for special education without designating a specific disability category, it is recognized that in certain circumstances the identification of a specific disability may enhance the development and ongoing provision of an appropriate educational program.

g. Policy for the development, review and revision of IEPs.

h. Policy for transition from Part C to Part B.

i. Policy for provision of special education and related services to students in accredited, nonpublic schools.

41.407(2) *Procedures.* Each AEA will develop written procedures pertinent to the provision of special education and related services and make such procedures available to the department upon request. At a minimum, such procedures include those identified in subrule 41.404(2) and the following:

a. Appointment of surrogate parents.

b. Provision of and payment for independent educational evaluations.

c. Procedures for monitoring the caseloads of LEA and AEA special education personnel to ensure that the IEPs of eligible individuals are able to be fully implemented. The description shall include the procedures for timely and effective resolution of concerns about caseloads and paraprofessional assistance that have not been resolved satisfactorily pursuant to subparagraph 41.408(2)*"b"*(3).

d. Procedures for evaluating the effectiveness of services in meeting the needs of eligible individuals in order to receive federal assistance.

e. Child find procedures that ensure that individuals with disabilities who are in need of special education and related services are identified, located and evaluated.

f. Evaluation and determination of eligibility procedures for identifying students who require special education that meet the requirements of these rules, including a description of the extent to which the AEA system uses categorical designations.

g. Procedures for the development, review and revision of IEPs.

h. Procedures to ensure the provision of special education and related services in the least restrictive environment.

i. Procedures for transition from Part C to Part B.

j. Procedures for provision of special education and related services to students in accredited, nonpublic schools.

k. Procedures describing the methods of ensuring services to eligible individuals.

41.407(3) *Responsibility for monitoring of compliance.* The AEA shall conduct activities in each constituent LEA to monitor compliance with the provisions of all applicable federal and state statutes and regulations and rules applicable to the education of eligible individuals. Monitoring of compliance activities will be as directed by the department.

41.407(4) *Educate and inform.* The AEA will provide the department with a description of proactive steps to inform and educate parents, AEA and LEA staff regarding eligibility, identification criteria and process, and due process steps to be followed when parents disagree regarding eligibility.

41.407(5) *Coordination of services.* The AEA will provide the department with a description of how the AEA identification process and LEA delivery systems for instructional services will be coordinated.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.408(256B,273,34CFR300) Instructional services.

41.408(1) *General.* Instructional services are the specially designed instruction and accommodations provided by special education instructional personnel to eligible individuals. These services are ordinarily provided by the LEA but, in limited circumstances, may be provided by another LEA, the AEA or another recognized agency through contractual agreement. An agency must use the procedure and criteria described in subrule 41.408(2) for creating a delivery system for instructional services.

41.408(2) *Delivery system.* An agency shall use the following development process for creating a system for delivering instructional services.

a. The delivery system shall meet this chapter's requirements relating to a continuum of services and placements, address the needs of eligible individuals aged 3 to 21, and provide for the following:

(1) The provision of accommodations and modifications to the general education environment and program, including settings and programs in which eligible individuals aged 3 through 5 receive specially designed instruction, including modification and adaptation of curriculum, instructional techniques and strategies, and instructional materials.

(2) The provision of specially designed instruction and related activities through cooperative efforts of special education teachers and general education teachers in the general education classroom.

(3) The provision of specially designed instruction on a limited basis by a special education teacher in the general classroom or in an environment other than the general classroom, including consultation with general education teachers.

(4) The provision of specially designed instruction to eligible individuals with similar special education instructional needs organized according to the type of curriculum and instruction to be provided, and the severity of the educational needs of the eligible individuals served.

b. The delivery system shall be described in writing and shall include the following components:

(1) A description of how services will be organized and how services will be provided to eligible individuals consistent with the requirements of this chapter, and the provisions described in paragraph 41.408(2)*"a."*

(2) A description of how the caseloads of special education teachers will be determined and regularly monitored to ensure that the IEPs of eligible individuals are able to be fully implemented.

(3) A description of the procedures a special education teacher can use to resolve concerns about caseload. The procedures shall specify timelines for the resolution of a concern and identify the person to whom a teacher reports a concern. The procedures shall also identify the person or persons who are responsible for reviewing a concern and rendering a decision, including the specification of any corrective actions.

(4) A description of the process that will be used to evaluate the effectiveness of the system.

(5) A description of how the delivery system will meet the targets identified in the state's performance plan, described in this chapter.

(6) A description of how the delivery system will address needs identified by the state in any determination made under this chapter.

c. The following procedures shall be followed by the agency:

(1) The delivery system will be developed by a group of individuals that includes parents of eligible individuals, special education and general education teachers, administrators, and at least one AEA representative. The AEA representative will be selected by the AEA director.

(2) The AEA director of special education will verify that the delivery system complies with these rules prior to LEA board adoption.

(3) Prior to presenting the delivery system to the LEA board for adoption, the group responsible for its development will provide an opportunity for comment on the system by the general public. In presenting the delivery system to the LEA board for adoption, the group will describe the comment received from the general public and how the comment was considered.

(4) The LEA board will approve the system prior to implementation.

d. The procedure presented in subrule 41.907(9) shall be followed in applying the weighting plan for special education instructional funds described in Iowa Code section 256B.9 to any delivery system developed under these provisions.

e. An LEA shall review, revise, and readopt its delivery system using the procedures identified in paragraph *"c"* of this subrule at least every five years, or sooner if required by the state in conjunction with any determination made under this chapter.

f. An LEA shall make the document describing its delivery system readily available to LEA personnel and members of the public.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.409(256B,34CFR300) Support services. Support services are the specially designed instruction and activities that augment, supplement or support the educational program of eligible individuals. These services include special education consultant services, educational strategist services, audiology, occupational therapy, physical therapy, school psychology, school social work services, special education nursing services, and speech-language services. Support services are usually provided by the AEA but may be provided by contractual agreement, subject to the approval of the board, by another qualified agency.

281—41.410(256B,34CFR300) Itinerant services. Special education may be provided to eligible individuals on an itinerant basis.

41.410(1) *School based.* Special education may be provided on an itinerant basis whenever the number, age, severity, or location of eligible individuals to be served does not justify the provision of professional personnel on a full-time basis to an attendance center. These services are usually provided by the AEA but may be provided by contractual agreement, subject to the approval of the AEA board, by the LEA or another qualified agency.

41.410(2) *Home service or hospital service.* Special education shall be provided to eligible individuals whose condition precludes their participation in the general and special education provided in schools or related facilities. Home or hospital instructional services shall in ordinary circumstances be provided by the LEA but may be provided by contractual agreement, subject to the approval of the LEA board, by the AEA or another qualified agency. Home or hospital support or related services are usually provided by the AEA but may be provided by contractual agreement, subject to the approval of the AEA board, by the LEA or another qualified agency. The provision of services in a home or hospital setting shall satisfy the following:

a. The service and the location of the service shall be specified in the individual's IEP.

b. The status of these individuals shall be periodically reviewed to substantiate the continuing need for and the appropriateness of the service.

c. Procedural safeguards shall be afforded to individuals receiving special education through itinerant services in a home or hospital setting. A need for itinerant services in a home or hospital setting must be determined at a meeting to develop or revise the individual's IEP, and parents must give consent or be given notice, as appropriate.

281—41.411(256B,34CFR300) Related services, supplementary aids and services. Related services and supplementary aids and services shall be provided to an eligible individual in accordance with an IEP. Such services that are also support services under rule 281—41.409(256B,34CFR300) are usually provided by the AEA but may be provided by contractual agreement, subject to the approval of the board, by another qualified agency. Other such services are usually provided by the LEA but may be provided by contractual agreement, subject to the approval of the board, by another qualified agency.

281—41.412(256B,34CFR300) Transportation. Transportation of eligible individuals shall generally be provided as for other individuals, when appropriate. Specialized transportation of an eligible individual to and from a special education instructional service is a function of that service and, therefore, an appropriate expenditure of special education instructional funds generated through the weighting plan. Transportation includes travel to and from school and between schools; travel in and around school buildings; and specialized equipment, such as special or adapted buses, lifts, and ramps, if required to provide special transportation for a child with a disability.

41.412(1) *Special arrangements.* Transportation of an eligible individual to and from a special education support service is a function of that service, shall be specified in the IEP, and be considered an appropriate expenditure of funds generated for special education support services. When, because of an eligible individual's educational needs or because of the location of the program, the IEP team determines that unique transportation arrangements are required and the arrangements are specified in the IEP, the resident LEA shall be required to provide one or more of the following transportation arrangements for instructional services and the AEA for support services:

a. Transportation from the eligible individual's residence to the location of the special education services and back to the individual's residence, or child care placement for eligible individuals below the age of six.

b. Special assistance or adaptations in getting the eligible individual to and from and on and off the vehicle, en route to and from the special education services.

c. Reimbursement of the actual costs of transportation when by mutual agreement the parents provide transportation for the eligible individual to and from the special education services.

d. Agencies are not required to provide reimbursement to parents who elect to provide transportation in lieu of agency-provided transportation.

41.412(2) *Responsibility for transportation.*

a. The AEA shall provide the cost of transportation of eligible individuals to and from special education support services. The AEA shall provide the cost of transportation necessary for the provision of special education support services to nonpublic school eligible individuals if the cost of that transportation is in addition to the cost of transportation provided for special education instructional services.

b. When individuals enrolled in nonpublic schools are enrolled in public schools to receive special education instructional services, transportation provisions between nonpublic and public attendance centers will be the responsibility of the school district of residence.

c. Transportation of individuals, when required for educational diagnostic purposes, is a special education support service and, therefore, an appropriate expenditure of funds generated for special education support services.

41.412(3) *Purchase of transportation equipment.* When it is necessary for an LEA to purchase equipment to transport eligible individuals to special education instructional services, this equipment shall be purchased from the LEA's general fund, the physical plant and equipment levy (PPEL) fund, or the secure an advanced vision for education (SAVE) fund, if appropriate. The direct purchase of transportation

equipment is not an appropriate expenditure of special education instructional funds generated through the weighting plan. A written schedule of depreciation for this transportation equipment shall be developed by the LEA, using the method specified in Iowa Code section 285.1(12). An annual charge to special education instructional funds generated through the weighting plan for depreciation of the equipment shall be made and reported as a special education transportation cost in the LEA Certified Annual Report if the equipment was purchased from the general fund. If the transportation equipment was purchased using funds from the PPEL fund or SAVE fund, that purchase is not reported as a cost from special education funds generated through the weighting plan. Annual depreciation charges on transportation equipment purchased with funds from the PPEL fund or SAVE fund shall be calculated by the LEA according to the directions provided with the Annual Transportation Report and adjusted to reflect the proportion of special education mileage to the total annual mileage.

41.412(4) *Lease of transportation equipment.* An LEA may elect to lease equipment to transport eligible individuals to special education instructional services, in which case the lease cost would be an expenditure from the PPEL fund or the SAVE fund, if appropriate. Cost of the lease, or that portion of the lease attributable to special education transportation expense, shall not be considered a special education transportation cost and shall not be reported in the LEA Certified Annual Report.

41.412(5) *Transportation equipment safety standards.* All transportation equipment, either purchased or leased by an LEA to transport eligible individuals to special education instructional services or provided by an AEA, must conform to the transportation equipment safety and construction standards contained in 281—Chapters 43 and 44.

41.412(6) *Transportation for students in interdistrict and intradistrict school choice programs, such as open enrollment.* The following provisions apply to the transportation of eligible individuals who participate in school choice programs:

a. A parent who elects to have an eligible individual attend another school within an LEA may be required by the LEA to provide transportation to that eligible individual, even if transportation is listed on the eligible individual's IEP as a service.

b. If a parent elects to have an eligible individual with transportation listed as a service on the individual's IEP attend a school in a different LEA under the open enrollment provisions of Iowa Code section 282.18 and 281—Chapter 17, and the resident district informs the parent it will not be providing transportation for the eligible individual to the receiving district, a parent who chooses to proceed with open enrollment will be deemed, as a matter of law, to have waived the transportation listed as a service on the IEP.

c. If a parent of an eligible individual with transportation listed as a service on the individual's IEP elects to have the eligible individual attend a school in a different LEA under the open enrollment provisions of Iowa Code section 282.18 and 281—Chapter 17, and the resident district elects to provide that transportation as a service, such transportation as a related service may be provided by the resident district, regardless of consent granted or refused by the receiving district and notwithstanding any other statute or rule to the contrary.

d. If a parent of an eligible individual with transportation listed as a service on the individual's IEP elects to have the eligible individual attend a school in a different LEA under the open enrollment provisions of Iowa Code section 282.18 and 281—Chapter 17, and the receiving district elects to provide that transportation as a service, such transportation as a related service may be provided by the receiving district, regardless of consent granted or refused by the resident district and notwithstanding any other statute or rule to the contrary, but the costs of such transportation shall not be paid by the individual's resident district.

e. If an eligible individual's placement team proposes placement in a district other than the district of residence based on a tuition arrangement, regardless of whether the eligible individual's IEP lists transportation as a related service, and the other district agrees to accept the eligible individual as an open enrollment student but not as a tuition student, the receiving district must provide transportation as a related service, regardless of consent granted or refused by the receiving district and notwithstanding any other statute or rule to the contrary.

f. Except as expressly provided in this subrule, nothing in this subrule creates or expands any right, license, or privilege concerning transportation of persons who are not eligible individuals or transportation of eligible individuals who do not have transportation listed as a service on an IEP.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.413(256,256B,34CFR300) Additional rules relating to accredited nonpublic schools.

41.413(1) *State and local funds under Iowa Code section 256.12.* State and local funds expended to provide special education and related services to eligible individuals who receive special education and related services in accredited nonpublic schools under Iowa Code section 256.12 must be expended on services, including materials and equipment, that are secular, neutral, and nonideological and, unless a provision of Iowa Code section 256.12 specifically requires the contrary, are subject to the restrictions contained in rules 281—41.138(256,256B,34CFR300) to 281—41.144(256,256B,34CFR300).

41.413(2) *Placements by public agencies.* State and local funds expended to provide special education and related services to eligible individuals who receive special education and related services in accredited nonpublic schools pursuant to a placement made or referred by a public agency pursuant to rules 281—41.145(256B,34CFR300) to 281—41.147(256B,34CFR300) must be expended on services, including materials and equipment, that are secular, neutral, and nonideological and, unless a provision of law specifically requires the contrary, are subject to the restrictions contained in rules 281—41.138(256,256B,34CFR300) to 281—41.144(256,256B,34CFR300).

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.414 to **41.499** Reserved.

DIVISION VII
PROCEDURAL SAFEGUARDS

281—41.500(256B,34CFR300) Responsibility of SEA and other public agencies. The department shall ensure that each public agency establishes, maintains, and implements procedural safeguards that meet the requirements of rules 281—41.500(256B,34CFR300) to 281—41.536(256B,34CFR300).

281—41.501(256B,34CFR300) Opportunity to examine records; parent participation in meetings.

41.501(1) *Opportunity to examine records.* The parents of a child with a disability must be afforded, in accordance with the procedures of rules 281—41.613(256B,34CFR300) to 281—41.621(256B,34CFR300), an opportunity to inspect and review all education records with respect to:

a. The identification, evaluation, and educational placement of the child; and

b. The provision of FAPE to the child.

41.501(2) *Parent participation in meetings.*

a. The parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to:

(1) The identification, evaluation, and educational placement of the child; and

(2) The provision of FAPE to the child.

b. Each public agency must provide notice consistent with paragraphs 41.322(1)*"a"* and 41.322(2) *"b"* to ensure that parents of children with disabilities have the opportunity to participate in meetings described in paragraph 41.501(2)*"a."*

c. A meeting does not include informal or unscheduled conversations involving public agency personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

41.501(3) *Parent involvement in placement decisions.*

a. Each public agency must ensure that a parent of each child with a disability is a member of any group that makes decisions on the educational placement of the parent's child.

b. In implementing the requirements of paragraph 41.501(3)*"a,"* the public agency must use procedures consistent with the procedures described in subrule 41.322(1) to paragraph 41.322(2)*"a."*

c. If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their child, the public agency must use other methods to ensure their participation, including individual or conference telephone calls, or video conferencing.

d. A placement decision may be made by a group without the involvement of a parent, if the public agency is unable to obtain the parent's participation in the decision. In this case, the public agency must have a record of its attempt to ensure parental involvement.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.502(256B,34CFR300) Independent educational evaluation.

41.502(1) *General.*

a. The parents of a child with a disability have the right to obtain an independent educational evaluation of the child, subject to subrules 41.502(2) to 41.502(5).

b. Each public agency must provide to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained and the agency criteria applicable for independent educational evaluations as set forth in subrule 41.502(5).

c. For the purposes of this division:

(1) "Independent educational evaluation" means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question; and

(2) "Public expense" means that the AEA either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent.

41.502(2) *Parent right to evaluation at public expense.*

a. A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the AEA, subject to the conditions in paragraphs 41.502(2)*"b"* to *"d."*

b. If a parent requests an independent educational evaluation at public expense, the AEA must, without unnecessary delay, either:

(1) File a due process complaint to request a hearing to show that its evaluation is appropriate; or

(2) Ensure that an independent educational evaluation is provided at public expense, unless the AEA demonstrates in a hearing pursuant to these rules that the evaluation obtained by the parent did not meet agency criteria.

c. If the AEA files a due process complaint notice to request a hearing and the final decision is that the AEA's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

d. If a parent requests an independent educational evaluation, the AEA may ask for the parent's reason why the parent objects to the public evaluation. However, the AEA may not require the parent to provide an explanation and may not unreasonably delay either providing the independent educational evaluation at public expense or filing a due process complaint to request a due process hearing to defend the public evaluation.

e. A parent is entitled to only one independent educational evaluation at public expense each time a public agency conducts an evaluation with which the parent disagrees.

41.502(3) *Parent-initiated evaluations.* If the parent obtains an independent educational evaluation at public expense or shares with a public agency an evaluation obtained at private expense, the results of the evaluation:

a. Must be considered by the public agency, if it meets agency criteria, in any decision made with respect to the provision of FAPE to the child; and

b. May be presented by any party as evidence at a hearing on a due process complaint under this chapter regarding that child.

41.502(4) *Requests for evaluations by administrative law judges.* If an administrative law judge requests an independent educational evaluation as part of a hearing on a due process complaint, the cost of the evaluation must be at public expense.

41.502(5) *Agency criteria.*

a. If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must

be the same as the criteria that the public agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent educational evaluation.

b. Except for the criteria described in paragraph 41.502(5)*"a,"* a public agency may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.503(256B,34CFR300) Prior notice by the public agency; content of notice.

41.503(1) *Notice.* Written notice that meets the requirements of subrule 41.503(2) must be given to the parents of a child with a disability within a reasonable time before the public agency:

a. Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or

b. Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

41.503(2) *Content of notice.* The notice required under subrule 41.503(1) must include the following:

a. A description of the action proposed or refused by the agency;

b. An explanation of why the agency proposes or refuses to take the action;

c. A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;

d. A statement that the parents of a child with a disability have protection under the procedural safeguards of this chapter and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;

e. Sources for parents to contact to obtain assistance in understanding the provisions of this chapter;

f. A description of other options that the IEP team considered and the reasons why those options were rejected; and

g. A description of other factors that are relevant to the agency's proposal or refusal.

41.503(3) *Notice in understandable language.*

a. The notice required under subrule 41.503(1) must be written in language understandable to the general public, and must be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

b. If the native language or other mode of communication of the parent is not a written language, the public agency must take steps to ensure the following:

(1) The notice is translated orally or by other means to the parent in the parent's native language or other mode of communication;

(2) The parent understands the content of the notice; and

(3) There is written evidence that the requirements in subparagraphs 41.503(3)*"b"*(1) and (2) have been met.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.504(256B,34CFR300) Procedural safeguards notice.

41.504(1) *General.* A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents only once a school year, except that a copy also must be given to the parents as follows:

a. Upon initial referral or parent request for evaluation;

b. Upon receipt of the first state complaint under rules 281—41.151(256B,34CFR300) to 281—41.153(256B,34CFR300) and upon receipt of the first due process complaint under rule 281—41.507(256B,34CFR300) in a school year;

c. In accordance with the discipline procedures in subrule 41.530(8); and

d. Upon request by a parent.

41.504(2) *Internet website.* A public agency may place a current copy of the procedural safeguards notice on its Internet website if a website exists.

41.504(3) *Contents.* The procedural safeguards notice must include a full explanation of all the procedural safeguards available under this chapter relating to the following:

a. Independent educational evaluations;

b. Prior written notice;

c. Parental consent;

d. Access to education records;

e. Opportunity to present and resolve complaints through the due process complaint and state complaint procedures, and must explain:

(1) The time period in which to file a complaint;

(2) The opportunity for the agency to resolve the complaint; and

(3) The difference between the due process complaint and the state complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures;

f. The availability of mediation;

g. The child's placement during the pendency of any due process complaint;

h. Procedures for students who are subject to placement in an interim alternative educational setting;

i. Requirements for unilateral placement by parents of children in private schools at public expense;

j. Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations;

k. Civil actions, including the time period in which to file those actions; and

l. Attorneys' fees.

41.504(4) *Notice in understandable language.* The notice required under subrule 41.504(1) must meet the requirements of subrule 41.503(3).

41.504(5) *"Summaries" of procedural safeguards limited.* An AEA or LEA may only provide a document summarizing the procedural safeguards notice if that document has been approved by the department. Any summary is to inform parents that the summary is only provided for the convenience of the reader and is not a replacement for the procedural safeguards notice. Any approved summary of the procedural safeguards notice will be given along with the procedural safeguards notice and will not be given in place of the procedural safeguards notice.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.505(256B,34CFR300) Electronic mail. A parent of a child with a disability may elect to receive notices required by these rules by an electronic mail communication, if the public agency makes that option available.

281—41.506(256B,34CFR300) Mediation.

41.506(1) *General.* Each public agency must ensure that procedures are established and implemented to allow parties involved in disputes relating to any matter under this chapter, including matters arising prior to the filing of a due process complaint, to resolve disputes through a mediation process.

41.506(2) *Requirements.* The procedures must meet the following requirements:

a. The procedures must ensure that the mediation process:

(1) Is voluntary on the part of the parties;

(2) Is not used to deny or delay a parent's right to a hearing on the parent's due process complaint, or to deny any other rights afforded under Part B of the Act; and

(3) Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

b. A public agency may establish procedures to offer to parents and schools that choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party:

(1) Who is under contract with an appropriate alternative dispute resolution entity, or a parent training and information center or community parent resource center in the state established under Section 671 or 672 of the Act; and

(2) Who would explain the benefits of, and encourage the use of, the mediation process to the parents.

c. State responsibility for mediation.

(1) The state must maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.

(2) The SEA must select mediators on a random, rotational, or other impartial basis.

d. The state must bear the cost of the mediation process, including the costs of meetings described in paragraph 41.506(2)*"b."*

e. Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the dispute.

f. If the parties resolve a dispute through the mediation process, the parties must execute a legally binding agreement that sets forth that resolution and that:

(1) States that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and

(2) Is signed by both the parent and a representative of the agency who has the authority to bind the agency.

g. A written, signed mediation agreement is enforceable in any state court of competent jurisdiction or in a district court of the United States.

h. Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any federal court or state court.

41.506(3) *Impartiality of mediator.*

a. An individual who serves as a mediator under this chapter:

(1) May not be an employee of the SEA or the LEA that is involved in the education or care of the child; and

(2) Must not have a personal or professional interest that conflicts with the person's objectivity.

b. A person who otherwise qualifies as a mediator is not an employee of an LEA or state agency described under rule 281—41.228(256B,34CFR300) solely because the person is paid by the agency to serve as a mediator.

41.506(4) *Mediation procedures.* A request for mediation filed before the filing of a due process complaint shall be conducted according to the procedures described in rule 281—41.1002(256B,34CFR300).

41.506(5) *Rule of construction.* The department shall accept documents captioned as requests for a "preappeal conference" as requests for mediation prior to the filing of a due process complaint.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.507(256B,34CFR300) Filing a due process complaint.

41.507(1) *General.*

a. Subject matter of due process complaint. A parent or a public agency may file a due process complaint on any of the matters described in subrule 41.503(1) relating to the identification, evaluation or educational placement of a child with a disability, or the provision of FAPE to the child.

b. The due process complaint must allege a violation that occurred not more than two years before the date the parent or public agency knew or should have known about the alleged action that forms the basis of the due process complaint, except that the exceptions to the timeline described in subrule 41.511(6) apply to the timeline in this rule.

41.507(2) *Information for parents.* The public agency must inform the parent of any free or low-cost legal and other relevant services available in the area if the parent requests the information or the parent or the agency files a due process complaint under this rule.

41.507(3) *Synonymous term.* Whenever the term "request for due process hearing" is used in prior department rules and documents, that term shall be construed to mean "due process complaint."

281—41.508(256B,34CFR300) Due process complaint.

41.508(1) *General.* A due process complaint shall be provided to the department, and a copy shall be provided to each party to the complaint.

41.508(2) *Content of complaint.* The due process complaint required in subrule 41.508(1) must include the following information:

a. The name of the child;

b. The address of the residence of the child;

c. The name of the school the child is attending;

d. In the case of a homeless child or youth within the meaning of Section 725(2) of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11434a(2), available contact information for the child and the name of the school the child is attending;

e. A description of the nature of the problem of the child relating to the proposed or refused initiation or change, including facts relating to the problem; and

f. A proposed resolution of the problem to the extent known and available to the party at the time.

41.508(3) *Notice required before a hearing on a due process complaint.* A party may not have a hearing on a due process complaint until the party, or the attorney representing the party, files a due process complaint that meets the requirements of subrule 41.508(2).

41.508(4) *Sufficiency of complaint.*

a. General. The due process complaint required by this rule must be deemed sufficient unless the party receiving the due process complaint notifies the administrative law judge and the other party in writing, within 15 days of receipt of the due process complaint, that the receiving party believes the due process complaint does not meet the requirements in subrule 41.508(2).

b. Determination. Within five days of receipt of notification under paragraph 41.508(4)*"a,"* the administrative law judge must make a determination on the face of the due process complaint of whether the due process complaint meets the requirements of subrule 41.508(2) and must immediately notify the parties in writing of that determination.

c. Amending due process complaint. A party may amend its due process complaint only if:

(1) The other party consents in writing to the amendment and is given the opportunity to resolve the due process complaint through a meeting held pursuant to rule 281—41.510(256B,34CFR300); or

(2) The administrative law judge grants permission, except that the administrative law judge may only grant permission to amend at any time not later than five days before the due process hearing begins.

d. Timelines after amendment. If a party files an amended due process complaint, the timelines for the resolution meeting in subrule 41.510(1) and the time period to resolve in subrule 41.510(2) begin again with the filing of the amended due process complaint.

41.508(5) *LEA response to a due process complaint.*

a. General. If the LEA has not sent a prior written notice to the parent regarding the subject matter contained in the parent's due process complaint, the LEA must, within ten days of receiving the due process complaint, send to the parent a response that includes the following:

(1) An explanation of why the agency proposed or refused to take the action raised in the due process complaint;

(2) A description of other options that the IEP team considered and the reasons why those options were rejected;

(3) A description of each evaluation procedure, assessment, record, or report the agency used as the basis for the proposed or refused action; and

(4) A description of the other factors that are relevant to the agency's proposed or refused action.

b. Rule of construction. A response by an LEA under paragraph 41.508(5)*"a"* shall not be construed to preclude the LEA from asserting that the parent's due process complaint was insufficient, where appropriate.

41.508(6) *Other party response to a due process complaint.* Except as provided in subrule 41.508(5), the party receiving a due process complaint must, within ten days of receiving the due process complaint, send to the other party a response that specifically addresses the issues raised in the due process complaint.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.509(256B,34CFR300) Model forms.

41.509(1) *Forms available.* The department shall develop model forms to assist parents and public agencies in filing a due process complaint and to assist parents and other parties in filing a state complaint; however, the department or LEA may not require the use of the model forms.

41.509(2) *Use of forms.* Parents, public agencies, and other parties may use the appropriate model form described in subrule 41.509(1), or another form or other document, so long as the form or document that is used meets, as appropriate, the content requirements in subrule 41.508(2) for filing a due process complaint or the requirements in subrule 41.153(2) for filing a state complaint.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.510(256B,34CFR300) Resolution process.

41.510(1) *Resolution meeting.*

a. General. Within 15 days of receiving notice of the parent's due process complaint and prior to the initiation of a due process hearing, the LEA must convene a meeting with the parent and the relevant member or members of the IEP team who have specific knowledge of the facts identified in the due process complaint that:

(1) Includes a representative of the public agency who has decision-making authority on behalf of that agency; and

(2) May not include an attorney of the LEA unless the parent is accompanied by an attorney.

b. Purpose of meeting. The purpose of the meeting is for the parent of the child to discuss the due process complaint and the facts that form the basis of the due process complaint so that the LEA has the opportunity to resolve the dispute that is the basis for the due process complaint.

c. When meeting not necessary. The meeting described in paragraphs 41.510(1)*"a"* and *"b"* need not be held if the parent and the LEA agree in writing to waive the meeting, or the parent and the LEA agree to use the mediation process described in rule 281—41.506(256B,34CFR300).

d. Determining relevant members of IEP team. The parent and the LEA determine the relevant members of the IEP team to attend the meeting.

41.510(2) *Resolution period.*

a. General. If the LEA has not resolved the due process complaint to the satisfaction of the parent within 30 days of the receipt of the due process complaint, the due process hearing may occur.

b. Timeline for decision. Except as provided in subrule 41.510(3), the timeline for issuing a final decision under rule 281—41.515(256B,34CFR300) begins at the expiration of this 30-day period.

c. Failure of parent to participate: delay of timeline. Except where the parties have jointly agreed to waive the resolution process or to use mediation, the failure of the parent filing a due process complaint to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until the meeting is held.

d. Failure of parent to participate: dismissal of complaint. If the LEA is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made and documented using the procedures in subrule 41.322(4), the LEA may, at the conclusion of the 30-day period, request that the administrative law judge dismiss the parent's due process complaint.

e. Failure of LEA to hold meeting. If the LEA fails to hold the resolution meeting specified in subrule 41.510(1) within 15 days of receiving notice of a parent's due process complaint or fails to participate in the resolution meeting, the parent may seek the intervention of the administrative law judge to begin the due process hearing timeline.

41.510(3) *Adjustments to 30-day resolution period.* The 45-day timeline for the due process hearing in subrule 41.515(1) starts the day after one of the following events:

a. Both parties agree in writing to waive the resolution meeting;

b. After either the mediation or resolution meeting starts but before the end of the 30-day period, the parties agree in writing that no agreement is possible;

c. If all parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later the parent or public agency withdraws from the mediation process.

41.510(4) *Written settlement agreement.* If a resolution to the dispute is reached at the meeting described in paragraphs 41.510(1)*"a"* and *"b,"* the parties must execute a legally binding agreement that is:

a. Signed by both the parent and a representative of the agency who has the authority to bind the agency; and

b. Enforceable in any state court of competent jurisdiction or in a district court of the United States, or, by the department, including but not limited to through the state complaint process.

41.510(5) *Agreement review period.* If the parties execute an agreement pursuant to subrule 41.510(4), a party may void the agreement within three business days of the agreement's execution.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.511(256B,34CFR300) Impartial due process hearing.

41.511(1) *General.* Whenever a due process complaint is received under this division, the parents or the LEA involved in the dispute must have an opportunity for an impartial due process hearing, consistent with the procedures in this chapter.

41.511(2) *SEA responsible for conducting the due process hearing.* The hearing described in subrule 41.511(1) must be conducted by the department.

41.511(3) *Administrative law judge.*

a. Minimum qualifications. At a minimum, an administrative law judge:

(1) Must not be an employee of the SEA or the LEA that is involved in the education or care of the child or a person having a personal or professional interest that conflicts with the person's objectivity in the hearing;

(2) Must possess knowledge of, and the ability to understand, the provisions of the Act, federal and state regulations pertaining to the Act, and legal interpretations of the Act by federal and state courts;

(3) Must possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and

(4) Must possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.

b. Rule of construction. A person who otherwise qualifies to conduct a hearing under 41.511(3)*"a"* is not an employee of the agency solely because the person is paid by the agency to serve as an administrative law judge.

c. SEA to maintain list of administrative law judges. The department shall keep a list of the persons who serve as administrative law judges. The list must include a statement of the qualifications of each of those persons.

41.511(4) *Subject matter of due process hearings.* The party requesting the due process hearing may not raise issues at the due process hearing that were not raised in the due process complaint filed under subrule 41.508(2), unless each of the other parties agrees otherwise.

41.511(5) *Timeline for requesting a hearing.* A parent or agency must request an impartial hearing on the due process complaint within two years of the date the parent or agency knew or should have known about the alleged action that forms the basis of the due process complaint.

41.511(6) *Exceptions to the timeline.* The timeline described in subrule 41.511(5) does not apply to a parent if the parent was prevented from filing a due process complaint due to either of the following:

a. Specific misrepresentations by the LEA that it had resolved the problem forming the basis of the due process complaint; or

b. The LEA's withholding of information from the parent that was required under this chapter to be provided to the parent.

281—41.512(256B,34CFR300) Hearing rights.

41.512(1) *General.* Any party to a hearing conducted pursuant to the rules of this division and Division XII has the right to:

a. Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;

b. Present evidence and confront, cross-examine, and compel the attendance of witnesses;

c. Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing;

d. Obtain a written or, at the option of the parents, electronic, verbatim record of the hearing; and

e. Obtain written or, at the option of the parents, electronic findings of fact and decisions.

41.512(2) *Additional disclosure of information.*

a. At least five business days prior to a hearing conducted pursuant to subrule 41.511(1), each party must disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing.

b. An administrative law judge may bar any party that fails to comply with paragraph 41.512(2)*"a"* from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

41.512(3) *Parental rights at hearings.* Parents involved in hearings must be given the right to:

a. Have the child who is the subject of the hearing present;

b. Open the hearing to the public; and

c. Have the record of the hearing and the findings of fact and decisions described in paragraphs 41.512(1)*"d"* and *"e"* provided at no cost to parents.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.513(256B,34CFR300) Hearing decisions.

41.513(1) *Decision of administrative law judge on the provision of FAPE.*

a. Subject to paragraph 41.513(1)*"b,"* an administrative law judge's determination of whether a child received FAPE must be based on substantive grounds.

b. In matters alleging a procedural violation, an administrative law judge may find that a child did not receive FAPE only if the procedural inadequacies:

(1) Impeded the child's right to FAPE;

(2) Significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of FAPE to the parent's child; or

(3) Caused a deprivation of educational benefit.

c. Nothing in this subrule shall be construed to preclude an administrative law judge from ordering an LEA to comply with procedural requirements under this division.

41.513(2) Reserved.

41.513(3) *Separate request for a due process hearing.* Nothing in this division shall be construed to preclude a parent from filing a separate due process complaint on an issue separate from a due process complaint already filed.

41.513(4) *Findings and decision to advisory panel and general public.* The department, after deleting any personally identifiable information, must:

a. Transmit the findings and decisions referred to in paragraph 41.512(1)*"e"* to the state advisory panel established under rule 281—41.167(256B,34CFR300); and

b. Make those findings and decisions available to the public.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.514(256B,34CFR300) Finality of decision. A decision made in a hearing conducted pursuant to this division is final, except that any party involved in the hearing may appeal the decision by filing a civil action in state or federal court.

281—41.515(256B,34CFR300) Timelines and convenience of hearings.

41.515(1) *Timeline.* The public agency must ensure that not later than 45 days after the expiration of the 30-day period under subrule 41.510(2) or the adjusted time periods described in subrule 41.510(3):

a. A final decision is reached in the hearing; and

b. A copy of the decision is mailed to each of the parties.

41.515(2) Reserved.

41.515(3) *Extensions of time or continuances.* An administrative law judge may grant specific extensions of time or continuances beyond the periods set out in subrule 41.515(1) at the request of either party.

41.515(4) *Hearing time.* Each hearing must be conducted at a time and place that is reasonably convenient to the parents and child involved.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.516(256B,34CFR300) Civil action.

41.516(1) *General.* Any party aggrieved by the findings and decision made under this division has the right to bring a civil action with respect to the due process complaint notice requesting a due process hearing under this division. The action may be brought in any state court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy.

41.516(2) *Time limitation.* The party bringing the action shall have 90 days from the date of the decision of the administrative law judge to file a civil action.

41.516(3) *Additional requirements.* In any action brought under subrule 41.516(1), the court:

a. Receives the records of the administrative proceedings;

b. Hears additional evidence at the request of a party; and

c. Basing its decision on the preponderance of the evidence, grants the relief that the court determines to be appropriate.

41.516(4) *Jurisdiction of United States district courts.* The district courts of the United States have jurisdiction of actions brought under Section 615 of the Act without regard to the amount in controversy.

41.516(5) *Rule of construction.* Nothing in Part B of the Act or this chapter restricts or limits the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990, Title V of the Rehabilitation Act of 1973, or other federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under these laws seeking relief that is also available under Section 615 of the Act, the procedures under rules 281—41.507(256B,34CFR300) and 281—41.514(256B,34CFR300) must be exhausted to the same extent as would be required had the action been brought under Section 615 of the Act.

281—41.517(256B,34CFR300) Attorneys' fees.

41.517(1) *General.* In any action or proceeding brought under Section 615 of the Act, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to any of the following:

a. The prevailing party who is the parent of a child with a disability;

b. To a prevailing party who is an SEA or LEA against the attorney of a parent who files a complaint or subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or

c. To a prevailing SEA or LEA against the attorney of a parent, or against the parent, if the parent's request for a due process hearing or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.

41.517(2) *Prohibition on use of funds.*

a. Funds under Part B of the Act may not be used to pay attorneys' fees or costs of a party related to any action or proceeding under Section 615 of the Act and this division.

b. Paragraph 41.517(2)*"a"* does not preclude a public agency from using funds under Part B of the Act for conducting an action or proceeding under Section 615 of the Act.

41.517(3) *Award of fees.* A court awards reasonable attorneys' fees under Section 615(i)(3) of the Act consistent with the following:

a. Amount of fees. Fees awarded under Section 615(i)(3) of the Act must be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this paragraph.

b. When fees and costs may not be awarded.

(1) Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding under Section 615 of the Act for services performed subsequent to the time of a written offer of settlement to a parent if:

1. The offer is made within the time prescribed by Rule 68 of the federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any time more than ten days before the proceeding begins;

2. The offer is not accepted within ten days; and

3. The court or administrative law judge finds that the relief finally obtained by the parents is not more favorable to the parents than the offer of settlement.

(2) Attorneys' fees may not be awarded relating to any meeting of the IEP team unless the meeting is convened as a result of an administrative proceeding or judicial action, or at the discretion of the state, for a mediation described in rule 281—41.506(256B,34CFR300).

(3) A meeting conducted pursuant to rule 281—41.510(256B,34CFR300) shall not be considered either of the following:

1. A meeting convened as a result of an administrative hearing or judicial action; or

2. An administrative hearing or judicial action for purposes of this rule.

c. Exception to offer of settlement subrule. Notwithstanding subparagraph 41.517(3)*"b"*(1), an award of attorneys' fees and related costs may be made to a parent who is the prevailing party and who was substantially justified in rejecting the settlement offer.

d. Reduction in attorney fees. Except as provided in paragraph 41.517(3)*"e,"* the court reduces, accordingly, the amount of the attorneys' fees awarded under Section 615 of the Act, if the court finds that:

(1) The parent, or the parent's attorney, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;

(2) The amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience;

(3) The time spent and legal services furnished were excessive considering the nature of the action or proceeding; or

(4) The attorney representing the parent did not provide to the LEA the appropriate information in the due process request notice in accordance with rule 281—41.508(256B,34CFR300).

e. Exception to reduction in fees subrule. The provisions of paragraph 41.517(3)*"d"* do not apply in any action or proceeding if the court finds that the state or local agency unreasonably protracted the final resolution of the action or proceeding or there was a violation of Section 615 of the Act.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.518(256B,34CFR300) Child's status during proceedings.

41.518(1) *General.* Except as provided in rule 281—41.533(256B,34CFR300), during the pendency of any administrative or judicial proceeding regarding a due process complaint notice requesting a due process hearing under rule 281—41.507(256B,34CFR300), unless the state or local agency and the parents of the child agree otherwise, the child involved in the complaint must remain in his or her current educational placement.

41.518(2) *Initial admission to public school.* If the complaint involves an application for initial admission to public school, the child, with the consent of the parents, must be placed in the public school until the completion of all the proceedings.

41.518(3) *Transition from Part C to Part B.* If the complaint involves an application for initial services under this chapter from a child who is transitioning from Part C of the Act to Part B and is no longer eligible for Part C services because the child has reached the age of three, the public agency is not required to provide the Part C services that the child had been receiving. If the child is found eligible for special education and related services under Part B and the parent consents to the initial provision of special education and related services under subrule 41.300(2), then the public agency must provide those special education and related services that are not in dispute between the parent and the public agency.

41.518(4) *Administrative law judge decision.* If the administrative law judge in a due process hearing conducted by the SEA agrees with the child's parents that a change of placement is appropriate, that placement must be treated as an agreement between the state and the parents for purposes of subrule 41.518(1).

41.518(5) *Mediation requested prior to the filing of a due process complaint.* Except as provided in rule 281—41.533(256B,34CFR300), during the pendency of any request for mediation filed prior to or in lieu of a due process complaint under rule 281—41.506(256B,34CFR300) and for ten days after any such mediation conference at which no agreement is reached, unless the state or local agency and the parents of the child agree otherwise, the child involved in any such mediation conference must remain in his or her current educational placement.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.519(256B,34CFR300) Surrogate parents.

41.519(1) *General.* Each public agency must ensure that the rights of a child are protected when:

a. No parent as defined in rule 281—41.30(256B,34CFR300) can be identified;

b. The public agency, after reasonable efforts, cannot locate a parent;

c. The child is a ward of the state under the laws of the state; or

d. The child is an unaccompanied homeless youth as defined in Section 725(6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(6)).

41.519(2) *Duties of public agency.* The duties of a public agency under subrule 41.519(1) include the assignment of an individual to act as a surrogate for the parents. This must include a method for determining whether a child needs a surrogate parent and for assigning a surrogate parent to the child.

41.519(3) *Wards of the state.* In the case of a child who is a ward of the state, the surrogate parent alternatively may be appointed by the judge presiding in the child's case, provided that the surrogate meets the requirements in subparagraph 41.519(4)*"b"*(1) and subrule 41.519(5).

41.519(4) *Criteria for selection of surrogate parents.*

a. The public agency may select a surrogate parent in any way permitted under state law.

b. Public agencies must ensure that a person selected as a surrogate parent:

(1) Is not an employee of the SEA, the LEA, or any other public or private agency that is involved in the education or care of the child;

(2) Has no personal or professional interest that conflicts with the interest of the child the surrogate parent represents; and

(3) Has knowledge and skills that ensure adequate representation of the child.

41.519(5) *Nonemployee requirement; compensation.* A person otherwise qualified to be a surrogate parent under subrule 41.519(4) is not an employee of the agency solely because the person is paid by the agency to serve as a surrogate parent.

41.519(6) *Unaccompanied homeless youth.* In the case of a child who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents without regard to subparagraph 41.519(4)*"b"*(1), until a surrogate parent can be appointed that meets all of the requirements of subrule 41.519(4).

41.519(7) *Surrogate parent responsibilities.* The surrogate parent may represent the child in all matters relating to the identification, evaluation, and educational placement of the child, and the provision of FAPE to the child.

41.519(8) *Training of surrogate parents.* Training will be conducted as necessary by each AEA using a training procedure approved by the department, which includes rights and responsibilities of a surrogate parent, sample forms used by LEAs and AEAs, specific needs of individuals with disabilities and resources for legal and instructional technical assistance. The department will provide continuing education and assistance to AEAs upon request.

41.519(9) *SEA responsibility.* The department must make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after a public agency determines that the child needs a surrogate parent.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.520(256B,34CFR300) Transfer of parental rights at age of majority.

41.520(1) *General.* The state provides, when a child with a disability (except for a child with a disability who has been determined to be incompetent under state law) reaches the age of majority under Iowa Code section 599.1, all of the following:

a. General rule.

(1) The public agency must provide any notice required by this chapter to both the child and the parents; and

(2) All rights accorded to parents under Part B of the Act transfer to the child.

b. Special rule: incarcerated eligible individuals. All rights accorded to parents under Part B of the Act transfer to children who are incarcerated in an adult or juvenile, state or local correctional institution.

c. Notice requirement. Whenever a state provides for the transfer of rights under Part B of the Act and this chapter pursuant to paragraph 41.520(1)*"a"* or *"b,"* the agency must notify the child and the parents of the transfer of rights.

41.520(2) *Special rules.* If a court appoints a guardian for an eligible individual who has attained the age of majority under subrule 41.520(1) and the court determines all decisions shall be made by the guardian or specifically determines all educational decisions should be made by the guardian, then rights

under subrule 41.520(1) do not transfer but are exercised pursuant to any applicable orders of the court. If a court determines a child who has attained the age of majority under subrule 41.520(1) does not have capacity to make educational decisions under any other applicable statute, then rights under subrule 41.520(1) do not transfer and are exercised by the child's parent or pursuant to court order. If and when state law provides that a competent authority may determine that an eligible individual who has attained the age of majority under subrule 41.520(1) and who has not been found incompetent by any court under this subrule, the department shall establish procedures for appointing the parent of a child with a disability, or, if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of the child's eligibility under Part B of the Act if the child can be determined by the competent authority, by clear and convincing evidence, not to have the ability to provide informed consent with respect to the child's educational program.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.521 to **41.529** Reserved.

281—41.530(256B,34CFR300) Authority of school personnel.

41.530(1) *Case-by-case determination.* School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the other requirements of this rule, is appropriate for a child with a disability who violates a code of student conduct.

41.530(2) *General.*

a. School personnel under this rule may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than ten consecutive school days, to the extent those alternatives are applied to children without disabilities, and for additional removals of not more than ten consecutive school days in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change of placement under rule 281—41.536(256B,34CFR300).

b. After a child with a disability has been removed from his or her current placement for ten school days in the same school year, during any subsequent days of removal the public agency must provide services to the extent required under subrule 41.530(4).

41.530(3) *Additional authority.* For disciplinary changes in placement that would exceed ten consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability pursuant to subrule 41.530(5), school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities, except as provided in subrule 41.530(4).

41.530(4) *Services.*

a. A child with a disability who is removed from the child's current placement pursuant to subrule 41.530(3) or 41.530(7) must receive the following:

(1) Educational services, as provided in subrule 41.101(1), so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and

(2) As appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

b. The services required by paragraphs 41.530(4)*"a"* and *"c"* to *"e"* may be provided in an interim alternative educational setting.

c. A public agency is required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for ten school days or less in that school year, only if it provides services to a child without disabilities who is similarly removed.

d. After a child with a disability has been removed from his or her current placement for ten school days in the same school year, if the current removal is for not more than ten consecutive school days and is not a change of placement under rule 281—41.536(256B,34CFR300), school personnel, in consultation with at least one of the child's teachers, shall determine the extent to which services are needed, as provided in subrule 41.101(1), so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

e. If the removal is a change of placement under rule 281—41.536(256B,34CFR300), the child's IEP team determines appropriate services under paragraph 41.530(4)*"a."*

41.530(5) *Manifestation determination.*

a. Within ten school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the AEA, the LEA, the parent, and relevant members of the child's IEP team, as determined by the parent and the AEA and LEA, must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine:

(1) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or

(2) If the conduct in question was the direct result of the failure by the AEA or LEA to implement the IEP.

b. The conduct must be determined to be a manifestation of the child's disability if the AEA, the LEA, the parent, and relevant members of the child's IEP team determine that a condition in either subparagraph 41.530(5)*"a"*(1) or (2) was met.

c. If the AEA, the LEA, the parent, and relevant members of the child's IEP team determine the condition described in subparagraph 41.530(5)*"a"*(2) was met, the public agency must take immediate steps to remedy those deficiencies.

41.530(6) *Determination that behavior was a manifestation.* If the AEA, the LEA, the parent, and relevant members of the IEP team make the determination that the conduct was a manifestation of the child's disability, the IEP team must proceed as follows:

a. Conduct a functional behavioral assessment, unless the AEA or LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or

b. If a behavioral intervention plan already has been developed, review the behavioral intervention plan and modify it, as necessary, to address the behavior; and

c. Except as provided in subrule 41.530(7), return the child to the placement from which the child was removed, unless the parent and the public agency agree to a change of placement as part of the modification of the behavioral intervention plan.

41.530(7) *Special circumstances.* School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child:

a. Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of an SEA or an LEA;

b. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA; or

c. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA.

41.530(8) *Notification.* On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct, the LEA must notify the parents of that decision and provide the parents the procedural safeguards notice described in rule 281—41.504(256B,34CFR300).

41.530(9) *Definitions.* For purposes of this rule, the following definitions apply:

a. Controlled substance. "Controlled substance" means a drug or other substance identified under Schedule I, II, III, IV, or V in Section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

b. Illegal drug. "Illegal drug" means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health care professional or that is legally possessed or used under any other authority under that Act or under any other provision of federal law.

c. Serious bodily injury. "Serious bodily injury" has the meaning given the term "serious bodily injury" under paragraph (3) of subsection (h) of Section 1365 of Title 18, United States Code.

d. Weapon. "Weapon" has the meaning given the term "dangerous weapon" under paragraph (2) of the first subsection (g) of Section 930 of Title 18, United States Code. A "weapon" under Iowa law is not necessarily a weapon for purposes of this rule unless it meets this definition of a "dangerous weapon."
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.531(256B,34CFR300) Determination of setting. The child's IEP team determines the interim alternative educational setting for services under subrule 41.530(3), paragraph 41.530(4)*"e,"* and subrule 41.530(7).
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.532(256B,34CFR300) Appeal.

41.532(1) *General.* The parent of a child with a disability who disagrees with any decision regarding placement under rules 281—41.530(256B,34CFR300) and 281—41.531(256B,34CFR300), or the manifestation determination under subrule 41.530(5), or an LEA that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others, may appeal the decision by requesting a hearing. The hearing is requested by filing a complaint pursuant to rule 281—41.507(256B,34CFR300) and subrules 41.508(1) and 41.508(2).

41.532(2) *Authority of administrative law judge.*

a. An administrative law judge under rule 281—41.511(256B,34CFR300) hears and makes a determination regarding an appeal under subrule 41.532(1).

b. In making the determination under subrule 41.532(1), the administrative law judge may do either of the following:

(1) Return the child with a disability to the placement from which the child was removed if the administrative law judge determines that the removal was a violation of rule 281—41.530(256B,34CFR300) or that the child's behavior was a manifestation of the child's disability; or

(2) Order a change of placement of the child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the administrative law judge determines that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

c. The procedures under subrule 41.532(1) and paragraphs 41.532(2)*"a"* and *"b"* may be repeated, if the LEA believes that returning the child to the original placement is substantially likely to result in injury to the child or to others.

41.532(3) *Expedited due process hearing.*

a. Whenever a hearing is requested under subrule 41.532(1), the parents or the LEA involved in the dispute must have an opportunity for an impartial due process hearing consistent with the requirements of rule 281—41.507(256B,34CFR300), subrules 41.508(1) to 41.508(3), and rules 281—41.510(256B,34CFR300) to 281—41.514(256B,34CFR300), except as provided in paragraphs 41.532(3)*"b"* and *"c."*

b. The department is responsible for arranging the expedited due process hearing, which must occur within 20 school days of the date the complaint requesting the hearing is filed. The administrative law judge must make a determination within ten school days after the hearing.

c. Unless the parents and LEA agree in writing to waive the resolution meeting described in this paragraph, or agree to use the mediation process described in rule 281—41.506(256B,34CFR300), the procedure is as follows:

(1) A resolution meeting must occur within seven days of receiving notice of the due process complaint; and

(2) The due process hearing may proceed unless the matter has been resolved to the satisfaction of all parties within 15 days of the receipt of the due process complaint.

d. Reserved.

e. The decisions on expedited due process hearings are appealable consistent with rule 281—41.514(256B,34CFR300).
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.533(256B,34CFR300) Placement during appeals and mediations. When an appeal under rule 281—41.532(256B,34CFR300) or a request for mediation under rules 281—41.506(256B,34CFR300) and 281—41.1002(256B,34CFR300) has been made by either the parent or the LEA, the child must remain in the interim alternative educational setting pending the decision of the administrative law judge or until the expiration of the time period specified in subrule 41.530(3) or 41.530(7), whichever occurs first, unless the parent and the SEA or LEA agree otherwise.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.534(256B,34CFR300) Protections for children not determined eligible for special education and related services.

41.534(1) *General.* A child who has not been determined to be eligible for special education and related services under this chapter and who has engaged in behavior that violated a code of student conduct may assert any of the protections provided for in this chapter if the public agency had knowledge, as determined in accordance with subrule 41.534(2), that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

41.534(2) *Basis of knowledge.* A public agency must be deemed to have knowledge that a child is a child with a disability if before the behavior that precipitated the disciplinary action occurred any of the following occurred:

a. The parent of the child expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency or to a teacher of the child that the child is in need of special education and related services;

b. The parent of the child requested an evaluation of the child pursuant to this chapter; or

c. The teacher of the child, or other personnel of the LEA, expressed specific concerns about a pattern of behavior demonstrated by the child directly to the director of special education of the agency or to other supervisory personnel of the agency.

41.534(3) *Exception.* A public agency would not be deemed to have knowledge under subrule 41.534(2) under the following conditions:

a. The parent of the child has not allowed an evaluation of the child pursuant to this chapter or has refused services under Part B of the Act or this chapter; or

b. The child has been evaluated in accordance with this chapter and determined not to be a child with a disability under Part B of the Act and this chapter.

41.534(4) *Conditions that apply if no basis of knowledge.*

a. General. If a public agency does not have knowledge that a child is a child with a disability, in accordance with subrules 41.534(2) and 41.534(3), prior to taking disciplinary measures against the child, the child may be subjected to the disciplinary measures applied to children without disabilities who engage in comparable behaviors consistent with paragraph 41.534(4)*"b."*

b. Request for evaluation.

(1) If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under rule 281—41.530(256B,34CFR300), the evaluation must be conducted in an expedited manner.

(2) Until the evaluation is completed, the child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

(3) If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the agency and information provided by the parents, the agency must provide special education and related services in accordance with Part B of the Act and this chapter, including the requirements of rules 281—41.530(256B,34CFR300) to 281—41.536(256B,34CFR300) and Section 612(a)(1)(A) of the Act.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.535(256B,34CFR300) Referral to and action by law enforcement and judicial authorities.

41.535(1) *Rule of construction.* Nothing in Part B of the Act or this chapter prohibits an agency from reporting a crime committed by a child with a disability to appropriate authorities or prevents state law

enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a child with a disability.

41.535(2) *Transmittal of records.*

a. An agency reporting a crime committed by a child with a disability must ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime.

b. An agency reporting a crime under this rule may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act, such as by obtaining consent (34 CFR Section 99.30) or in instances where disclosure without consent is permitted (34 CFR Section 99.31).

281—41.536(256B,34CFR300) Change of placement because of disciplinary removals.

41.536(1) *General.* For purposes of removals of a child with a disability from the child's current educational placement under rules 281—41.530(256B,34CFR300) to 281—41.535(256B,34CFR300), a change of placement occurs under the following circumstances:

a. The removal is for more than ten consecutive school days; or

b. The child has been subjected to a series of removals that constitute a pattern based on the following:

(1) The series of removals total more than ten school days in a school year;

(2) The child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and

(3) Additional factors, such as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.

41.536(2) *Rules of construction.*

a. The public agency determines on a case-by-case basis whether a pattern of removals constitutes a change of placement.

b. This determination is subject to review through due process and judicial proceedings.

c. Nothing in this rule shall be construed to prohibit LEAs from establishing policies that a change of placement occurs on the eleventh cumulative day of removal, regardless of the factors set forth in paragraph 41.536(1)*"b."*

41.536(3) *In-school suspensions and other actions.* In determining whether an in-school suspension or other disciplinary action is to be considered a removal for purposes of this rule, an in-school suspension or other disciplinary action will not be considered a removal if all three of the following questions are answered in the affirmative:

a. Will the child be able to appropriately participate in the general education curriculum?

b. Will the child be able to receive the services specified in the child's IEP?

c. Will the child be able to participate with children without disabilities to the extent provided in the child's current placement?

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.537(256B,34CFR300) State enforcement mechanisms. Notwithstanding paragraphs 41.506(2)*"g"* and 41.510(4)*"b,"* which provide for judicial enforcement of a written agreement reached as a result of mediation or a resolution meeting, there is nothing in Part B of the Act that would prevent the department from using other mechanisms to seek enforcement of that agreement, such as the state complaint procedure, provided that use of those mechanisms is not mandatory and does not delay or deny a party the right to seek enforcement of the written agreement in a state court of competent jurisdiction or in a district court of the United States.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.538 to **41.599** Reserved.

DIVISION VIII
MONITORING, ENFORCEMENT, CONFIDENTIALITY, AND PROGRAM INFORMATION

281—41.600(256B,34CFR300) State monitoring and enforcement.

41.600(1) *General.* The state must monitor the implementation of Part B of the Act and this chapter, enforce this chapter in accordance with rule 281—41.604(256B,34CFR300), and annually report on performance under Part B of the Act and this chapter.

41.600(2) *Primary focus of monitoring activity.* The primary focus of the state's monitoring activities must be on the following:

a. Improving educational results and functional outcomes for all children with disabilities; and

b. Ensuring that public agencies meet the program requirements under Part B of the Act, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities.

41.600(3) *Indicators of performance and compliance.* As a part of its responsibilities under subrule 41.600(1), the state must use quantifiable indicators and such qualitative indicators as are needed to adequately measure performance in the priority areas identified in subrule 41.600(4) and the indicators established by the Secretary for the state performance plans.

41.600(4) *Priority indicators.* The state must monitor the LEAs located in the state, using quantifiable indicators in each of the following priority areas and using such qualitative indicators as are needed to adequately measure performance in those areas:

a. Provision of FAPE in the least restrictive environment.

b. State exercise of general supervision, including child find, effective monitoring, the use of resolution meetings, mediation, and a system of transition services as defined in rule 281—41.43(256B,34CFR300) and in 20 U.S.C. 1437(a)(9).

c. Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification.

41.600(5) *Correction of noncompliance.* In exercising its monitoring responsibilities under subrule 41.600(4), the state must ensure that when it identifies noncompliance with the requirements of this chapter by an LEA, the noncompliance is corrected as soon as possible, but in no case later than one year after the state's identification of the LEA's noncompliance.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.601(256B,34CFR300) State performance plans and data collection.

41.601(1) *General.* Each state must have in place a performance plan that evaluates the state's efforts to implement the requirements and purposes of Part B of the Act and describes how the state will improve such implementation.

a. Each state must submit the state's performance plan to the Secretary for approval in accordance with the approval process described in Section 616(c) of the Act.

b. Each state must review its state performance plan at least once every six years and submit any amendments to the Secretary.

c. As part of the state performance plan, each state must establish measurable and rigorous targets for the indicators established by the Secretary under the priority areas described in 34 CFR Section 300.600(d).

41.601(2) *Data collection.*

a. The state must collect valid and reliable information as needed to report annually to the Secretary on the indicators established by the Secretary for the state performance plans.

b. If the Secretary permits states to collect data on specific indicators through state monitoring or sampling, and the state collects the data through state monitoring or sampling, the state must collect data on those indicators for each LEA at least once during the period of the state performance plan.

281—41.602(256B,34CFR300) State use of targets and reporting.

41.602(1) *General.* The state shall use the targets established in the state's performance plan under rule 281—41.601(256B,34CFR300) and the priority areas described in subrule 41.600(4) to analyze the performance of each LEA.

41.602(2) *Public reporting and privacy.*

a. Public report. The state must:

(1) Report annually to the public on the performance of each LEA located in the state on the targets in the state's performance plan as soon as practicable but no later than 120 days following the state's submission of its annual performance report under paragraph 41.602(2)*"b"*; and

(2) Make the state's performance plan, the state's annual performance reports, and annual reports on the performance of each LEA located in the state available through public means, including, at a minimum, by posting these documents on the website of the department, distribution to the media, and distribution through public agencies.

(3) If the state collects performance data through state monitoring or sampling, the state must include in its report under subparagraph 41.602(2)*"a"*(1) the most recently available performance data on each LEA, and the date the data were obtained.

b. State performance report. The state shall report annually to the Secretary on the performance of the state under the state's performance plan.

c. Privacy. The state shall not report to the public or the Secretary any information on performance that would result in the disclosure of personally identifiable information about individual children or where the available data are insufficient to yield statistically reliable information.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.603(256B,34CFR300) Department review and determination regarding public agency performance.

41.603(1) *Review.* The state shall annually review the performance of each LEA and AEA, including but not limited to data on indicators identified in the state's performance plan, information obtained through monitoring visits, and any other public information made available.

41.603(2) *Determination.* Based on the information obtained and reviewed by the state, the state shall determine whether each LEA and AEA:

a. Meets the requirements and purposes of Part B of the Act and of this chapter;

b. Needs assistance in implementing the requirements of Part B of the Act and of this chapter;

c. Needs intervention in implementing the requirements of Part B of the Act and of this chapter; or

d. Needs substantial intervention in implementing the requirements of Part B of the Act and of this chapter.

41.603(3) *Criteria for determination.* The department shall develop criteria for making the determinations required by subrule 41.603(2).

41.603(4) *Variance of determination.* In making the determination required by subrule 41.603(2), the SEA in its discretion may adjust or vary from the criteria described in subrule 41.603(3) based on unusual, unanticipated, or extraordinary aggravating or mitigating factors, on a case-by-case basis.

41.603(5) *Notice and opportunity for a hearing.* For determinations made under paragraph 41.603(2) *"a"* or *"b,"* the state shall provide reasonable notice of its determination. For determinations made under paragraph 41.603(2)*"c"* or *"d,"* the state shall provide reasonable notice of its determination and may, in its sound discretion, grant an informal hearing to an AEA or LEA; however, if withholding of funds is a remedy associated with a particular determination, the state shall provide a hearing under rule 281—41.605(256B,34CFR300). Under any hearing granted under this rule or rule 281—41.605(256B,34CFR300), the AEA or LEA must demonstrate that the state abused its discretion in making the determination described in subrule 41.603(2).

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.604(256B,34CFR300) Enforcement.

41.604(1) *Needs assistance.* If the state determines for two consecutive years that an LEA or AEA needs assistance under paragraph 41.603(2)*"b"* in implementing the requirements of Part B of the Act, the state shall take one or more of the following actions:

a. Advise the LEA or AEA of available sources of technical assistance that may help the LEA or AEA to address the areas in which it needs assistance, which may include assistance from the Iowa department of education, other state agencies, technical assistance providers approved by the Secretary, and other federally funded and state-funded nonprofit agencies, and require it to work with appropriate entities. Such technical assistance may include any of the following:

(1) The provision of advice by experts to address the areas in which the LEA or AEA needs assistance, including explicit plans for addressing the area for concern within a specified period of time;

(2) Assistance in identifying and implementing professional development, instructional strategies, and methods of instruction that are based on scientifically based research;

(3) Designating and using distinguished superintendents, principals, special education administrators, special education teachers and other teachers to provide advice, technical assistance, and support; and

(4) Devising additional approaches to providing technical assistance, such as collaborating with institutions of higher education, educational service agencies, national centers of technical assistance supported under Part D of the Act, and private providers of scientifically based technical assistance.

b. Identify the LEA or AEA as a high-risk grantee and impose special conditions on its grant under Part B of the Act.

41.604(2) *Needs intervention.* If the state determines for three or more consecutive years that an LEA or AEA needs intervention under paragraph 41.603(2)*"c"* in implementing the requirements of Part B of the Act, the following shall apply:

a. The state may take any of the actions described in subrule 41.604(1).

b. The state shall take one or more of the following actions:

(1) Require the LEA or AEA to prepare a corrective action plan or improvement plan if the state determines that the LEA or AEA should be able to correct the problem within one year.

(2) Withhold, in whole or in part, any further payments to the AEA or LEA under Part B of the Act.

41.604(3) *Needs substantial intervention.* Notwithstanding subrule 41.604(1) or 41.604(2), at any time that the state determines that an LEA or AEA needs substantial intervention in implementing the requirements of Part B of the Act or of this chapter or that there is a substantial failure to comply with any condition of an LEA's eligibility or an AEA's eligibility under Part B of the Act or this chapter, the state shall take one or more of the following actions:

a. Withhold, in whole or in part, any further payments to the LEA or AEA under Part B of the Act.

b. Refer the matter for appropriate enforcement action, which may include referral to the Iowa department of justice or the auditor of state.

41.604(4) *Rule of construction.* The listing of specific enforcement mechanisms in this rule shall not be construed to limit the enforcement mechanisms at the state's disposal in its enforcement of this rule or any other rule in this chapter.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.605(256B,34CFR300) Withholding funds.

41.605(1) *General.* As a consequence of a determination made under rule 281—41.603(256B,34CFR300) or enforcement of any provision of Part B of the Act and this chapter, the state may withhold some or all of the funds from an AEA or LEA or a program or service of an AEA or LEA, or may direct an AEA to withhold all or some funds from an LEA or a program or service of an LEA.

41.605(2) *Hearing.* If the state intends to withhold funds, the state shall provide notice and an opportunity for a hearing to the AEA or LEA. If a hearing is requested, the state may suspend payments to an AEA or LEA, or suspend the authority of the AEA or LEA to obligate funds, or both, until a decision is made after the hearing. A hearing under this rule, which shall not be a contested case under Iowa Code chapter 17A, shall be requested within 30 days of notice of withholding by requesting a hearing before the director of the Iowa department of education or the director's designee. The presiding officer at the hearing

shall consider the purposes of Part B of the Act and of this chapter and shall determine whether the state abused its discretion in its decision under subrule 41.605(1).

41.605(3) *Reinstatement.* If the LEA or AEA substantially rectifies the condition that prompted the initial withholding under subrule 41.605(1), then the state may reinstate payments to the LEA or AEA. If an LEA or AEA disagrees with the state's decision that it has not substantially rectified the condition that prompted the initial withholding under subrule 41.605(1), the LEA or AEA may request a hearing under subrule 41.605(2).

281—41.606(256B,34CFR300) Public attention. Any LEA or AEA that has received notice under paragraph 41.603(2)*"b," "c,"* or *"d"* must, by means of a public notice, take such measures as may be necessary to notify the public within the LEA or AEA of such notice and of the pendency of an action taken pursuant to rule 281—41.604(256B,34CFR300).
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.607 Reserved.

281—41.608(256B,34CFR300) State enforcement.

41.608(1) *Prohibition on reduction of maintenance of effort.* If the state determines that an LEA or AEA is not meeting the requirements of Part B of the Act, including the targets in the state's performance plan, the state must prohibit the LEA or AEA from reducing its maintenance of effort under rule 281—41.203(256B,34CFR300) for any fiscal year.

41.608(2) *Rule of construction.* Nothing in this chapter shall be construed to restrict the state from utilizing any other authority available to it to monitor and enforce the requirements of Part B of the Act or of this chapter.

281—41.609(256B,34CFR300) State consideration of other state or federal laws. In making the determinations required by rule 281—41.603(256B,34CFR300), in ordering actions pursuant to rule 281—41.604(256B,34CFR300), and in taking any other action under this chapter, the department may consider whether any agency has complied with any other applicable state or federal law, including but not limited to education law or disability law, or with any corrective action ordered by any competent authority for violation of any such law.

281—41.610(256B,34CFR300) Confidentiality. The state shall take appropriate action, in accordance with Section 444 of the General Education Provisions Act, to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the state and by LEAs and AEAs pursuant to Part B of the Act and this chapter, and consistent with rules 281—41.611(256B,34CFR300) to 281—41.626(256B,34CFR300).

281—41.611(256B,34CFR300) Definitions. The following definitions apply to rules 281—41.611(256B,34CFR300) to 281—41.625(256B,34CFR300).

"Destruction" means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

"Education records" means the type of records covered under the definition of "education records" in 34 CFR Part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g (FERPA)).

"Participating agency" means any agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under Part B of the Act or this chapter.
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.612(256B,34CFR300) Notice to parents.

41.612(1) *General.* The department must give notice that is adequate to fully inform parents about the requirements of rule 281—41.123(256B,34CFR300), including the following information:

a. A description of the extent that the notice is given in the native languages of the various population groups in the state;

b. A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the state intends to use in gathering the information, including the sources from whom information is gathered, and the uses to be made of the information;

c. A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and

d. A description of all of the rights of parents and children regarding this information, including the rights under FERPA and implementing regulations in 34 CFR Part 99.

41.612(2) *Media announcements required.* Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the state of the activity.

281—41.613(256B,34CFR300) Access rights.

41.613(1) *General.* Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this chapter. The agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, any hearing pursuant to rule 281—41.507(256B,34CFR300) or rules 281—41.530(256B,34CFR300) to 281—41.532(256B,34CFR300), or any resolution session pursuant to rule 281—41.510(256B,34CFR300), and in no case more than 45 days after the request has been made.

41.613(2) *Extent of right to inspect and review.* The right to inspect and review education records under this rule includes the following:

a. The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records;

b. The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and

c. The right to have a representative of the parent inspect and review the records.

41.613(3) *Who may inspect and review.* An agency may presume that the parent has authority to inspect and review records relating to the parent's child unless the agency has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation, and divorce.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.614(256B,34CFR300) Record of access. Each participating agency must keep a record of parties that obtain access to education records collected, maintained, or used under Part B of the Act, except access by parents and authorized employees of the participating agency, including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

281—41.615(256B,34CFR300) Records on more than one child. If any education record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.

281—41.616(256B,34CFR300) List of types and locations of information. Each participating agency must provide parents on request a list of the types and locations of education records collected, maintained, or used by the agency.

281—41.617(256B,34CFR300) Fees.

41.617(1) *Fees for copies in certain circumstances.* Each participating agency may charge a fee for copies of records that are made for parents under this chapter if the fee does not effectively prevent the parents from exercising their right to inspect and review those records.

41.617(2) *No fees permitted for record retrieval.* A participating agency may not charge a fee to search for or to retrieve information under this chapter.

281—41.618(256B,34CFR300) Amendment of records at parent's request.

41.618(1) *Parent may request amendment.* A parent who believes that information in the education records collected, maintained, or used under this chapter is inaccurate or misleading or violates the privacy or other rights of the child may request the participating agency that maintains the information to amend the information.

41.618(2) *Agency to act on parent's request.* The agency must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.

41.618(3) *Agency to inform parent of hearing rights.* If the agency decides to refuse to amend the information in accordance with the request, it must inform the parent of the refusal and advise the parent of the right to a hearing under rule 281—41.619(256B,34CFR300).

281—41.619(256B,34CFR300) Opportunity for a hearing. The agency must, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

281—41.620(256B,34CFR300) Result of hearing.

41.620(1) *Information to be amended.* If, as a result of the hearing, the agency decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it must amend the information accordingly and so inform the parent in writing.

41.620(2) *Information not to be amended.* If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it must inform the parent of the parent's right to place in the records the agency maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.

41.620(3) *Explanation placed in student records.* Any explanation placed in the records of the child under this rule must be maintained by the agency as part of the records of the child as long as the record or contested portion is maintained by the agency; and, if the records of the child or the contested portion is disclosed by the agency to any party, the explanation must also be disclosed to the party.

281—41.621(256B,34CFR300) Hearing procedures. A hearing held under rule 281—41.619(256B,34CFR300) must be conducted according to the procedures in 34 CFR 99.22.

281—41.622(256B,34CFR300) Consent.

41.622(1) *When parental consent required.* Parental consent must be obtained before personally identifiable information is disclosed to parties, other than officials of participating agencies in accordance with subrule 41.622(2), unless the information is contained in education records and the disclosure is authorized without parental consent under 34 CFR Part 99.

41.622(2) *When parental consent not required.* Except as provided in subrules 41.622(3) and 41.622(4), parental consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of this chapter.

41.622(3) *Parental consent required related to transition.* Parental consent, or the consent of an eligible child who has reached the age of majority under state law, must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services in accordance with paragraph 41.321(2)*"c."*

41.622(4) *Parental consent required relating to students enrolled in certain private schools.* If a child is enrolled or is going to enroll in a private school that is not located in the LEA and AEA of the parent's residence, parental consent must be obtained before any personally identifiable information about the child is released between officials in the LEA and AEA where the private school is located and officials in the LEA and AEA of the parent's residence.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.623(256B,34CFR300) Safeguards. Each participating agency must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages. One official at

each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information. All persons collecting or using personally identifiable information must receive training or instruction regarding the state's policies and procedures under rule 281—41.123(256B,34CFR300) and 34 CFR Part 99. Each participating agency must maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

281—41.624(256B,34CFR300) Destruction of information.

41.624(1) *Parents to be informed when information no longer required.* The public agency must inform parents when personally identifiable information collected, maintained, or used under Part B of the Act or this chapter is no longer needed to provide educational services to the child.

41.624(2) *Mandatory and permissive destruction of information.* The information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and telephone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation. This permanent record must contain the information required by rule 281—12.3(256).

41.624(3) *Rule of construction—no longer needed to provide educational services to the child.* For purposes of this rule, "no longer needed to provide educational services" means that a record is no longer relevant to the provision of instructional, support, or related services and it is no longer needed for accountability and audit purposes. At a minimum, a record needed for accountability and audit purposes must be retained for five years after completion of the activity for which funds were used.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.625(256B,34CFR300) Children's rights.

41.625(1) *General.* The state must have in effect policies and procedures regarding the extent to which children are afforded rights of privacy similar to those afforded to parents, taking into consideration the age of the child and type or severity of disability.

41.625(2) *Transfer of rights under FERPA.* Under the regulations for FERPA in 34 CFR 99.5(a), the rights of parents regarding education records are transferred to the student at the age of 18.

41.625(3) *Transfer of rights under Part B of the Act.* If the rights accorded to parents under Part B of the Act are transferred to a student who reaches the age of majority, consistent with rule 281—41.520(256B,34CFR300), the rights regarding educational records in rules 281—41.613(256B,34CFR300) to 281—41.624(256B,34CFR300) must also be transferred to the student. However, the public agency must provide any notice required under Section 615 of the Act to the student and the parents.

281—41.626(256B,34CFR300) Enforcement. The state must have in effect policies and procedures, including sanctions that the state uses, to ensure that its policies and procedures consistent with rules 281—41.611(256B,34CFR300) to 281—41.625(256B,34CFR300) are followed and that the requirements of the Act and the rules in this chapter are met.

281—41.627 to **41.639** Reserved.

281—41.640(256B,34CFR300) Annual report of children served—report requirement. The SEA must annually report to the Secretary on the information required by Section 618 of the Act at the times specified by the Secretary, and on forms provided by the Secretary.

281—41.641(256B,34CFR300) Annual report of children served—information required in the report.

41.641(1) *Date of count.* For purposes of the annual report required by Section 618 of the Act and rule 281—41.640(256B,34CFR300), the state and the Secretary of the Interior must count and report the number of children with disabilities receiving special education and related services on any date between October 1 and December 1 of each year.

41.641(2) *Child's age.* For the purpose of this reporting provision, a child's age is the child's actual age on the date of the child count.

41.641(3) *Count each child under only one disability category.* The SEA may not report a child under more than one disability category.

41.641(4) *Child with more than one disability.* If a child with a disability has more than one disability, the SEA must report that child in accordance with the following procedure:

a. If a child has only two disabilities and those disabilities are deafness and blindness, and the child is not reported as having a developmental delay, that child must be reported under the category "deaf-blindness."

b. A child who has more than one disability and is not reported as having deaf-blindness or as having a developmental delay must be reported under the category "multiple disabilities."

281—41.642(256B,34CFR300) Data reporting.

41.642(1) *Protection of personally identifiable data.* The data described in Section 618(a) of the Act and in rule 281—41.641(256B,34CFR300) must be publicly reported by each state in a manner that does not result in disclosure of data identifiable to individual children.

41.642(2) *Sampling permitted.* The Secretary permits the SEA to obtain data in Section 618(a) of the Act through sampling.

281—41.643(256B,34CFR300) Annual report of children served—certification. The SEA must include in its report a certification signed by an authorized official of the agency that the information provided under rule 281—41.640(256B,34CFR300) is an accurate and unduplicated count of children with disabilities receiving special education and related services on the dates in question.

281—41.644(256B,34CFR300) Annual report of children served—criteria for counting children. The SEA may include in its report children with disabilities who are enrolled in a school or program that is operated or supported by a public agency, and that provides them with both special education and related services that meet state standards; provides them only with special education, if a related service is not required, that meets state standards; or, in the case of children with disabilities enrolled by their parents in private schools, counts those children who are eligible under the Act and receive special education or related services or both that meet state standards under rules 281—41.132(256,256B,34CFR300) to 281—41.144(256,256B,34CFR300).

281—41.645(256B,34CFR300) Annual report of children served—other responsibilities of the SEA. In addition to meeting the other requirements of rules 281—41.640(256B,34CFR300) to 281—41.644(256B,34CFR300), the SEA must establish procedures to be used by LEAs and other educational institutions in counting the number of children with disabilities receiving special education and related services; set dates by which those agencies and institutions must report to the SEA to ensure that the state complies with rule 281—41.640(256B,34CFR300); obtain certification from each agency and institution that an unduplicated and accurate count has been made; aggregate the data from the count obtained from each agency and institution, and prepare the reports required under rules 281—41.640(256B,34CFR300) to 281—41.644(256B,34CFR300); and ensure that documentation is maintained that enables the state and the Secretary to audit the accuracy of the count.

281—41.646(256B,34CFR300) Disproportionality.

41.646(1) *General.* Using the methodology required by rule 281—41.647(256B,34CFR300), the state shall collect and examine data to determine if significant disproportionality based on race and ethnicity is occurring in the state and the LEAs of the state with respect to the following:

a. The identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in Section 602(3) of the Act;

b. The placement in particular educational settings of these children; and

c. The incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

41.646(2) *Review and revision of policies, practices, and procedures.* In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of these children, or the incidence, duration, and type of disciplinary actions, in accordance with subrule 41.646(1) and rule 281—41.647(256B,34CFR300), the state must proceed as follows:

a. Provide for the annual review and, if appropriate, revision of the policies, procedures, and practices used in the identification, placement, or disciplinary actions to ensure that the policies, procedures, and practices comply with the requirements of the Act; and

b. Require the LEA to publicly report on the revision of policies, practices, and procedures described under paragraph 41.646(2)*"a"* in a manner consistent with the requirements of the Family Educational Rights and Privacy Act, its implementing regulations in 34 CFR Part 99, and Section 618(b)(1) of the Act.

41.646(3) *Comprehensive coordinated early intervening services.* Except as provided in subrule 41.646(4), any LEA identified under subrule 41.646(1) shall reserve the maximum amount of funds under Section 613(f) of the Act to provide comprehensive coordinated early intervening services to address factors contributing to the significant disproportionality.

a. In implementing comprehensive coordinated early intervening services, an LEA:

(1) May carry out activities that include professional development and educational and behavioral evaluations, services, and supports.

(2) Must identify and address the factors contributing to the significant disproportionality, which may include, among other identified factors, a lack of access to scientifically based instruction; economic, cultural, or linguistic barriers to appropriate identification or placement in particular educational settings; inappropriate use of disciplinary removals; lack of access to appropriate diagnostic screenings; differences in academic achievement levels; and policies, practices, or procedures that contribute to the significant disproportionality.

(3) Must address a policy, practice, or procedure it identifies as contributing to the significant disproportionality, including a policy, practice or procedure that results in a failure to identify, or the inappropriate identification of, a racial or ethnic group (or groups).

b. An LEA may use funds reserved for comprehensive coordinated early intervening services to serve children from age 3 through grade 12, particularly, but not exclusively, children in those groups that were significantly over identified under subrule 41.646(1), including:

(1) Children who are not currently identified as needing special education or related services but who need additional academic and behavioral support to succeed in a general education environment; and

(2) Children with disabilities.

c. An LEA may not limit the provision of comprehensive coordinated early intervening services under this subrule to children with disabilities.

41.646(4) *Exception to comprehensive coordinated early intervening services.* The state shall not require any LEA that serves only children with disabilities identified under subrule 41.646(1) to reserve funds to provide comprehensive coordinated early intervening services.

41.646(5) *Rule of construction.* Nothing in this rule authorizes the state or an LEA to develop or implement policies, practices, or procedures that result in actions that violate the requirements of this chapter, including requirements related to child find and ensuring that a free appropriate public education is available to all eligible children with disabilities.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.647(256B,34CFR300) Determining significant disproportionality.

41.647(1) *Definitions.*

"Alternate risk ratio" is a calculation performed by dividing the risk of a particular outcome for children in one racial or ethnic group within an LEA by the risk of that outcome for children in all other racial or ethnic groups in the state.

"Comparison group" consists of the children in all other racial or ethnic groups within an LEA or within the state, when reviewing a particular racial or ethnic group within an LEA for significant disproportionality.

"Minimum cell size" is the minimum number of children experiencing a particular outcome, to be used as the numerator when calculating either the risk for a particular racial or ethnic group or the risk for children in all other racial or ethnic groups.

"Minimum n-size" is the minimum number of children enrolled in an LEA with respect to identification, and the minimum number of children with disabilities enrolled in an LEA with respect to placement and discipline, to be used as the denominator when calculating either the risk for a particular racial or ethnic group or the risk for children in all other racial or ethnic groups.

"Risk" is the likelihood of a particular outcome (identification, placement, or disciplinary removal) for a specified racial or ethnic group (or groups), calculated by dividing the number of children from a specified racial or ethnic group (or groups) experiencing that outcome by the total number of children from that racial or ethnic group or groups enrolled in the LEA.

"Risk ratio" is a calculation performed by dividing the risk of a particular outcome for children in one racial or ethnic group within an LEA by the risk for children in all other racial and ethnic groups within the LEA.

"Risk ratio threshold" is a threshold, determined by the state, over which disproportionality based on race or ethnicity is significant under subrule 41.646(1).

41.647(2) *Significant disproportionality determinations.* In determining whether significant disproportionality exists in the state or LEA under subrule 41.646(1), the state must do all of the following:

a. General. The state must set a:

(1) Reasonable risk ratio threshold;

(2) Reasonable minimum cell size;

(3) Reasonable minimum n-size; and

(4) Standard for measuring reasonable progress if the state uses the flexibility described in paragraph 41.647(4)*"b."*

b. Flexibility. The state may, but is not required to, set the standards set forth in paragraph 41.647(2)*"a"* at different levels for each of the categories described in paragraphs 41.647(2)*"f"* and 41.647(2)*"g."*

c. Development and review of standards. The standards set forth in paragraph 41.647(2)*"a"*:

(1) Must be based on advice from stakeholders, including state advisory panels, as provided under Section 612(a)(21)(D)(iii) of the Act; and

(2) Are subject to monitoring and enforcement for reasonableness by the Secretary consistent with Section 616 of the Act.

d. Presumption of reasonability. When monitoring for reasonableness under subparagraph 41.647(2)*"c"*(2), the following are presumptively reasonable:

(1) A minimum cell size under subparagraph 41.647(2)*"a"*(2) no greater than ten; and

(2) A minimum n-size under subparagraph 41.647(2)*"a"*(3) no greater than 30.

e. Application. The state must apply the risk ratio threshold or thresholds determined in paragraph 41.647(2)*"a"* to risk ratios or alternate risk ratios, as appropriate, in each category described in paragraphs 41.647(2)*"f"* and 41.647(2)*"g"* and the following racial and ethnic groups:

(1) Hispanic/Latino of any race; and, for individuals who are non-Hispanic/Latino only;

(2) American Indian or Alaska Native;

(3) Asian;

(4) Black or African American;

(5) Native Hawaiian or Other Pacific Islander;

(6) White; and

(7) Two or more races.

f. Calculation of risk ratio: identification. Except as provided in paragraph 41.647(2)*"h"* and subrule 41.647(3), the state must calculate the risk ratio for each LEA, for each racial and ethnic group in paragraph 41.647(2)*"e"* with respect to:

(1) The identification of children ages 3 through 21 as children with disabilities; and

(2) The identification of children ages 3 through 21 as children with the following impairments:

1. Intellectual disabilities;

2. Specific learning disabilities;

3. Emotional disturbance;
4. Speech or language impairments;
5. Other health impairments; and
6. Autism.

g. Calculation of risk ratio: placement and disciplinary removals. Except as provided in paragraph 41.647(2)*"h"* and subrule 41.647(3), the state must calculate the risk ratio for each LEA, for each racial and ethnic group in paragraph 41.647(2)*"e"* with respect to the following placements into particular educational settings, including disciplinary removals:

(1) For children with disabilities ages 6 through 21, inside a regular class less than 40 percent of the day;

(2) For children with disabilities ages 6 through 21, inside separate schools and residential facilities, not including homebound or hospital settings, correctional facilities, or private schools;

(3) For children with disabilities ages 3 through 21, out-of-school suspensions and expulsions of ten days or fewer;

(4) For children with disabilities ages 3 through 21, out-of-school suspensions and expulsions of more than ten days;

(5) For children with disabilities ages 3 through 21, in-school suspensions of ten days or fewer;

(6) For children with disabilities ages 3 through 21, in-school suspensions of more than ten days; and

(7) For children with disabilities ages 3 through 21, disciplinary removals in total, including in-school and out-of-school suspensions, expulsions, removals by school personnel to an interim alternative education setting, and removals by a hearing officer.

h. Alternate risk ratio. The state must calculate an alternate risk ratio with respect to the categories described in paragraphs 41.647(2)*"f"* and 41.647(2)*"g"* if the comparison group in the LEA does not meet the minimum cell size or the minimum n-size.

i. Identification as having significant disproportionality. Except as provided in subrule 41.647(4), the state must identify as having significant disproportionality based on race or ethnicity under subrule 41.646(1) any LEA that has a risk ratio or alternate risk ratio for any racial or ethnic group in any of the categories described in paragraphs 41.647(2)*"f"* and 41.647(2)*"g"* that exceeds the risk ratio threshold set by the state for that category.

j. Reporting under this subrule to the Secretary. The state must report all risk ratio thresholds, minimum cell sizes, minimum n-sizes, and standards for measuring reasonable progress selected under subparagraphs 41.647(2)*"a"*(1) through 41.647(2)*"a"*(4), and the rationales for each, to the U.S. Department of Education at a time and in a manner determined by the Secretary. Rationales for minimum cell sizes and minimum n-sizes not presumptively reasonable under paragraph 41.647(2)*"d"* must include a detailed explanation of why the numbers chosen are reasonable and how they ensure that the state is appropriately analyzing and identifying LEAs with significant disparities, based on race and ethnicity, in the identification, placement, or discipline of children with disabilities.

41.647(3) *Exception.* The state is not required to calculate a risk ratio or alternate risk ratio, as outlined in paragraphs 41.647(2)*"f,"* 41.647(2)*"g,"* and 41.647(2)*"h,"* to determine significant disproportionality if:

a. The particular racial or ethnic group being analyzed does not meet the minimum cell size or minimum n-size; or

b. In calculating the alternate risk ratio under paragraph 41.647(2)*"h,"* the comparison group in the state does not meet the minimum cell size or minimum n-size.

41.647(4) *Flexibility.* The state is not required to identify an LEA as having significant disproportionality based on race or ethnicity under subrule 41.646(1) until:

a. The LEA has exceeded a risk ratio threshold set by the state for a racial or ethnic group in a category described in paragraphs 41.647(2)*"f"* and 41.647(2)*"g"* for up to three prior consecutive years preceding the identification; and

b. The LEA has exceeded the risk ratio threshold and has failed to demonstrate reasonable progress, as determined by the state, in lowering the risk ratio or alternate risk ratio for the group and category in each of the two prior consecutive years.

41.647(5) *Rule of construction.* Nothing in this rule shall be construed to require identification or classification of any child by impairment.
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.648 to **41.799** Reserved.

DIVISION IX
RESERVED

DIVISION X
PRESCHOOL GRANTS FOR CHILDREN WITH DISABILITIES

281—41.800(256B,34CFR300) General rule. The Secretary provides grants under Section 619 of the Act to assist states to provide special education and related services in accordance with Part B of the Act to children with disabilities aged three through five years; and, at a state's discretion, to two-year-old children with disabilities who will turn three during the school year.

281—41.801 to **41.803** Reserved.

281—41.804(256B,34CFR300) Eligibility. A state is eligible for a grant under Section 619 of the Act if the state is eligible under Section 612 of the Act to receive a grant under Part B of the Act and makes FAPE available to all children with disabilities, aged three through five, residing in the state.

281—41.805 Reserved.

281—41.806(256B,34CFR300) Eligibility for financial assistance. No state or LEA, or other public institution or agency, may receive a grant or enter into a contract or cooperative agreement under Subpart 2 or 3 of Part D of the Act that relates exclusively to programs, projects, and activities pertaining to children aged three through five years, unless the state is eligible to receive a grant under Section 619(b) of the Act.

281—41.807 to **41.812** Reserved.

281—41.813(256B,34CFR300) State administration.

41.813(1) *General.* For the purpose of administering Section 619 of the Act, including the coordination of activities under Part B of the Act with and providing technical assistance to other programs that provide services to children with disabilities, the state may use not more than 20 percent of the maximum amount the state may reserve under rule 281—41.812(256B,34CFR300) for any fiscal year.

41.813(2) *Use for administering Part C.* Funds described in subrule 41.813(1) may also be used for the administration of Part C of the Act.

281—41.814(256B,34CFR300) Other state-level activities. The state must use any funds the state reserves under rule 281—41.812(256B,34CFR300) and does not use for administration under rule 281—41.813(256B,34CFR300) for other state-level activities, consistent with 34 CFR Section 300.814.

281—41.815(256B,34CFR300) Subgrants to AEAs. The state shall make subgrants to AEAs consistent with 34 CFR Section 300.815.
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.816(256B,34CFR300) Allocations to AEAs. The state must allocate to AEAs the amount described in rule 281—41.815(256B,34CFR300), consistent with 34 CFR Section 300.816.

281—41.817(256B,34CFR300) Reallocation of AEA funds. The state shall reallocate AEA funds under conditions listed and in a manner specified by 34 CFR Section 300.817.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.818(256B,34CFR300) Part C of the Act inapplicable. Part C of the Act does not apply to any child with a disability receiving FAPE, in accordance with Part B of the Act, with funds received under Section 619 of the Act.

281—41.819 to **41.900** Reserved.

DIVISION XI
ADDITIONAL RULES CONCERNING FINANCE AND PUBLIC ACCOUNTABILITY

281—41.901(256B,282) Records and reports. Each agency shall maintain sufficient records and reports for audit by the department. Records and reports shall include at a minimum: licensure (certification) and endorsements or recognition requirements for all special education personnel under rules 281—41.401(256B,34CFR300) to 281—41.403(256B); all IEP and IFSP meetings and three-year reevaluations for each eligible individual; and data required for federal and state reporting.

281—41.902(256B,282) Audit. The department reserves the right to audit the records of any agency providing special education for eligible individuals and utilizing funds generated under Iowa Code chapters 256B, 273 and 282.

281—41.903(256B,282) Contractual agreements.

41.903(1) *General.* Any special education instructional program not provided directly by an LEA or any special education support service not provided by an AEA can only be provided through a contractual agreement. The board shall approve contractual agreements for AEA-operated special education instructional programs and contractual agreements permitting special education support services to be provided by agencies other than the AEA.

41.903(2) *Specific requirements.* Each agency contracting with other agencies to provide special education and related services for individuals or groups of individuals maintain responsibility for individuals receiving such special education and related services by:

a. Ensuring that all the requirements related to the development of each eligible individual's IEP are met.

b. Requiring and reviewing periodic progress reports to ensure the adequacy and appropriateness of the special education and related services provided.

c. Conditioning payments on delivery of special education and related services in accordance with the eligible individual's IEP and in compliance with these rules.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.904(256B) Research and demonstration projects and models for special education program development. Applications for aid, whether provided directly from state or federal funds, for special education research and demonstration projects and models for program development shall be submitted to the department.

281—41.905(256B,273) Additional special education. Additional special education made available through the provisions of Iowa Code section 273.3 will be furnished in a manner consistent with these rules.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.906(256B,273,282) Extended school year services. Approved extended school year programs for special education support services, when provided by the AEA for eligible individuals, will be funded through procedures as provided for special education support services. Approved extended school year instructional programs will be funded through procedures as provided for special education instructional programs.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.907(256B,282,34CFR300,303) Program costs.

41.907(1) *Nonresident individual.* Subject to subrule 41.131(6), the program costs charged by an LEA or an AEA for an instructional program for a nonresident eligible individual shall be the actual costs incurred in providing that program.

41.907(2) *Contracted special education.* An AEA or LEA may make provisions for resident eligible individuals through contracts with public or private agencies that provide appropriate and approved special education. The program costs charged by or paid to a public or private agency for special education instructional programs shall be the actual costs incurred in providing that program.

41.907(3) *LEA responsibility.* The resident LEA shall be liable only for instructional costs incurred by an agency for those individuals certified as eligible in accordance with these rules unless required by 34 CFR Section 300.104.

41.907(4) *Support service funds.* Support service funds may not be utilized to supplement any special education programs authorized to use special education instructional funds generated through the weighting plan.

41.907(5) *Responsibility for special education for children living in a foster care facility or treatment facility.*

a. Eligible individuals who are living in a licensed individual or agency child foster care facility, as defined in Iowa Code section 237.1, or in an unlicensed relative foster care placement shall remain enrolled in and attend an accredited school in the school district in which the child resided and is enrolled at the time of placement, unless it is determined by the juvenile court or a public or private agency of this state that has responsibility for the child's placement that remaining in such school is not in the best interests of the child. If such a determination is made, the child may be enrolled in the district in which the child is placed and not in the district in which the child resided prior to receiving foster care. The costs of the special education required by this chapter shall be paid, in either case, by the school district of residence of the eligible individual.

b. For eligible individuals who are living in a facility as defined in Iowa Code section 125.2, the LEA in which the facility is located must provide special education if the facility does not maintain a school. The costs of the special education shall be paid by the school district of residence of the eligible individual.

c. If the school district of residence of the eligible individual cannot be determined and this individual is not included in the weighted enrollment of any LEA in the state, the LEA in which the facility is located may certify the costs to the director of education by August 1 of each year for the preceding fiscal year. Payment shall be made from the general fund of the state.

41.907(6) *Responsibility for special education for individuals after termination of parental rights.* For eligible individuals placed by the district court, and for whom parental rights have been terminated by the district court, the LEA in which the facility or home is located must provide special education. Costs shall be certified to the director of education by August 1 of each year for the preceding fiscal year by the director of the AEA in which this individual has been placed. Payment shall be made from the general fund of the state.

41.907(7) *Proper use of special education instructional and support service funds.* Special education instructional funds generated through the weighting plan may be utilized to provide special education instructional services both in state and out of state with the exceptions of itinerant instructional services under subrule 41.410(1) and special education consultant services that shall utilize special education support service funds for both in-state and out-of-state placements.

41.907(8) *Funding of ECSE instructional options.* Eligible individuals below the age of six may be designated as full-time or part-time students depending on the needs of the child. Funding shall be based on individual needs as determined by the IEP team. Special education instructional funds generated through the weighting plan can be used to pay tuition, transportation, and other necessary special education costs, but shall not be used to provide child care.

a. Full-time ECSE instructional services shall include 20 hours or more of instruction per week. The total hours of participation in special education and general education may be combined to constitute a full-time program.

b. Part-time ECSE instructional services shall include up to 20 hours of instruction per week. The total hours of participation in special education and general education may be combined to constitute a part-time program.

c. Funds under 20 U.S.C. Chapter 33, Part C, may be used to provide FAPE, in accordance with these rules, to eligible individuals from their third birthday to the beginning of the following school year.

41.907(9) *Funding for instructional services.* After an LEA board approves a delivery system for instructional services as described in subrule 41.408(2), the director, in accordance with Iowa Code sections 256B.9 and 273.5, will assign the appropriate special education weighting to each eligible individual by designating a level of service. The level of service refers to the relationship between the general education program and specially designed instruction for an eligible individual. The level of service is determined based on an eligible individual's educational need and independent of the environment in which the specially designed instruction is provided. The level of service assigned shall not be a factor in a services or placement decision, and shall be made only after those decisions have been made. One of three levels of service shall be assigned by the director:

a. Level I. A level of service that provides specially designed instruction for a limited portion or part of the educational program. A majority of the general education program is appropriate. This level of service includes modifications and adaptations to the general education program. (Reference Iowa Code section 256B.9(1)*"b"*)

b. Level II. A level of service that provides specially designed instruction for a majority of the educational program. This level of service includes substantial modifications, adaptations, and special education accommodations to the general education program. (Reference Iowa Code section 256B.9(1) *"c"*)

c. Level III. A level of service that provides specially designed instruction for most or all of the educational program. This level of service requires extensive redesign of curriculum and substantial modification of instructional techniques, strategies and materials. (Reference Iowa Code section 256B.9(1) *"d"*)

41.907(10) *Procedures for billing under subrules 41.907(5) and 41.907(6).* The department may establish procedures by which it determines which district initially pays the costs of special education and related services and seeks reimbursement in situations where a parent of a child cannot be located, parental rights have been terminated, or parents are deceased.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.908(256B,282) Accountability. The responsible agency shall provide special education and related services in accordance with the individual's IEP; but the agency, teacher, or other person is not held accountable if an individual does not achieve the growth projected in the annual goals and objectives of the IEP, so long as the individual's IEP was reasonably calculated to confer education benefit and was implemented. Nothing in this rule or this chapter is to be construed to create a right of action against any individual.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.909 to **41.1001** Reserved.

DIVISION XII
PRACTICE BEFORE MEDIATORS AND ADMINISTRATIVE LAW JUDGES

281—41.1002(256B,34CFR300) Special education mediation conference.

41.1002(1) *Procedures.* The parent, the LEA or the AEA may request a special education mediation conference on any issue under this chapter. The mediation conference shall comply with rule 281—41.506(256B,34CFR300).

a. A request for a special education mediation conference may be in the form of a letter or a pleading or on a form provided by the department. The request will identify the student, LEA and AEA and set forth

the facts, the issues of concern, or the reasons for the conference. The letter will be provided to the department, to the AEA, and to the LEA.

b. Within five business days of receipt of the request for the conference, the department will contact all pertinent parties to determine whether participation is desired.

c. A mediation conference will be scheduled and held at a time and place reasonably convenient to all parties involved. Written notice will be sent to all parties by the department.

d. The student's complete school record will be made available for review by the parent prior to the conference, if requested in writing at least ten calendar days before the conference.

e. The individual's complete school record will be available to the participants at the conference if the record is requested in writing at least ten calendar days prior to any scheduling conference call or within two days following the scheduling conference call. The parties may agree to make less than the complete educational record available, or make no educational records available, at the mediation conference.

f. A mediator provided by the department will preside over the conference.

g. If an agreement is reached, a document meeting the requirements of paragraph 41.506(2)*"f"* will be executed.

h. If agreement is not reached at the conference, all parties will be informed of the procedures for filing a due process complaint.

41.1002(2) *Placement during proceedings.* Pursuant to rule 281—41.518(256B,34CFR300), unless the parties agree otherwise, the student involved in the mediation conference must remain in the student's present educational placement during the pendency of the proceedings.

41.1002(3) *Withdrawals or automatic closures.* The initiating party may request a withdrawal prior to the conference. Automatic closure of the department file will occur if any of the following circumstances apply:

a. One of the parties refuses to participate in the voluntary process.

b. The conference is held, but parties are not able to reach an agreement. There will be a ten-calendar-day waiting period after the conference to continue the placement as described in subrule 41.1002(2) in the event a party wishes to pursue a hearing.

c. The conference is held, the parties are able to reach an agreement, and the agreement does not specify a withdrawal date. If a withdrawal date is part of the agreement, an agency withdrawal will occur on the designated date.

41.1002(4) *Confidentiality of discussions.* Discussions that occur during the special education mediation conference must be confidential, except as may be provided in Iowa Code chapter 679C, and may not be used as evidence in any subsequent due process hearings or civil proceedings; however, the parties may stipulate to agreements reached at the conference. Prior to the start of the conference, the parties and the mediator will be required to sign an Agreement to Mediate form containing this confidentiality provision.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24; **ARC 8240C**, IAB 10/2/24, effective 11/6/24]

281—41.1003(17A,256B) Procedures concerning due process complaints. Due process hearings will be conducted pursuant to these rules, the rules of the department of inspections, appeals, and licensing, and any order made by the presiding administrative law judge.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.1004 to **41.1008** Reserved.

281—41.1009(17A,256B) Witnesses.

41.1009(1) *Subpoenas.* The director of education has the power to issue, but not to serve, subpoenas for witnesses and to compel the attendance of those thus served and the giving of evidence by them. The subpoenas will be given to the requesting parties whose responsibility it is to serve to the designated witnesses. Requests for subpoenas may be denied or delayed if not submitted to the department at least five business days prior to the hearing date.

41.1009(2) *Attendance of witness compelled.* Any party may compel by subpoena the attendance of witnesses, subject to limitations imposed by state law.

41.1009(3) *Cross-examination.* Witnesses at the hearing are subject to cross-examination. An individual whose testimony has been submitted in written form, if available, will be subject to cross-examination by any party necessary for a full and true disclosure of the facts. If the individual is not available and cross-examination is necessary for a full and true disclosure of the facts, the administrative law judge may exclude the individual's testimony in written form.
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.1010(17A,256B) Rules of evidence.

41.1010(1) *Receiving relevant evidence.* Because the administrative law judge must decide each case fairly, based on the information presented, it is necessary to allow for the reception of all relevant evidence that will contribute to an informed result. The ultimate test of admissibility is whether the offered evidence is reliable, probative and relevant.

41.1010(2) *Acceptable evidence.* Irrelevant, immaterial or unduly repetitious evidence will be excluded. The kind of evidence reasonably prudent persons rely on may be accepted even if it would be inadmissible in a jury trial. The administrative law judge will give effect to the rules of privilege recognized by law. Objections to evidence may be made and shall be noted in the record. When a hearing is expedited and the interests of the parties are not prejudiced substantially, any part of the evidence may be required to be submitted in verified written form.

41.1010(3) *Documentary evidence.* Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties will be given an opportunity to compare the copy with the original, if available. Any party has the right to prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing.

41.1010(4) *Administrative notice and opportunity to contest.* The administrative law judge may take official notice of all facts of which judicial notice may be taken and of other facts within the specialized knowledge of the administrative law judge. Parties will be notified at the earliest practicable time, either before or during the hearing or by reference in preliminary reports, and afforded an opportunity to contest such facts before the decision is announced unless the administrative law judge determines as part of the record or decision that fairness to the parties does not require an opportunity to contest such facts.

41.1010(5) *Discovery.* Discovery procedures applicable to civil actions are available to all parties in due process hearings under this chapter. Evidence obtained in discovery may be used in the hearing before the agency if that evidence would otherwise be admissible in the agency hearing. The administrative law judge may exercise such control over discovery, including its nature, scope, frequency, duration, or sequence, as permitted by the Iowa rules of civil procedure, and for such grounds as those rules may provide.

41.1010(6) *Administrative law judge may evaluate evidence.* The administrative law judge's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence.

41.1010(7) *Decision.* A decision will be made upon consideration of the whole record or such portions that are supported by and in accordance with reliable, probative and substantial evidence.
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.1011(17A,256B) Communications.

41.1011(1) *Restrictions on communications—administrative law judge.* The administrative law judge will not communicate directly or indirectly in connection with any issue of fact or law in that contested case with any person or party except upon notice and opportunity for all parties to participate.

41.1011(2) *Restrictions on communications—parties.* Parties or their representatives will not communicate directly or indirectly in connection with any issue of fact or law with the administrative law judge except upon notice and opportunity for all parties to participate as are provided for by administrative rules. The recipient of any prohibited communication will submit the communication, if written, or a summary of the communication, if oral, for inclusion in the record of the proceeding.

41.1011(3) *Sanctions.* Any or all of the following sanctions may be imposed upon a party who violates this rule: censure, suspension or revocation of the privilege to practice before the department, or the rendering of a decision against a party who violates the rules.
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.1012(17A,256B) Record.

41.1012(1) *Transcripts.* All recordings or notes by certified court reporters of oral proceedings or the transcripts thereof will be maintained and preserved by the department for at least five years from the date of decision.

41.1012(2) *Hearing record.* The record of a hearing will be maintained and preserved by the department for at least five years from the date of the decision. The record under this division includes the following:

a. All pleadings, motions and intermediate rulings.
b. All evidence received or considered and all other submissions.
c. A statement of matters officially noted.
d. All questions and offers of proof, objections and rulings thereof.
e. All proposed findings and exceptions.
f. Any decision, opinion or report by the administrative law judge presented at the hearing.

[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.1013 Reserved.

281—41.1014(17A,256B) Finality of decision.

41.1014(1) *Decision final.* The decision of the administrative law judge is final. The date of postmark of the decision is the date used to compute time for purposes of appeal.

41.1014(2) *Notice to department of a civil action.* A party initiating a civil action in state or federal court under rule 281—41.516(256B,34CFR300) shall provide an informational copy of the petition or complaint to the department within 14 days of filing the action.

41.1014(3) *Filing of certified administrative record.* The department shall file a certified copy of the administrative record within 30 days of receiving the informational copy referred to in subrule 41.1014(2).
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.1015(256B,34CFR300) Disqualification of mediator. Any party may request an appointment of a new mediator for any reason listed in subrule 41.1004(1). The department will determine whether such grounds exist and, if so, shall appoint a new mediator.
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.1016(17A) Correcting decisions of administrative law judges. An administrative law judge may, on the motion of any party or on the administrative law judge's own motion, correct any error in a decision or order under this chapter that does not substantively alter the administrative law judge's findings of fact, conclusions of law, or ordered relief, including clerical errors, errors in grammar or spelling, and errors in the form of legal citation. Any such correction will be made within 90 days of the date of the order or decision, will relate back to the date of the order or decision, and will not extend any applicable statute of limitations.
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.1017 to **41.1099** Reserved.

DIVISION XIII
ADDITIONAL RULES NECESSARY TO IMPLEMENT AND APPLY THIS CHAPTER

281—41.1100(256B,34CFR300) References to federal law. Unless otherwise specified, all references in this chapter to the United States Code or to the Code of Federal Regulations are to those provisions in effect on February 7, 2024.
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24; **ARC 8240C**, IAB 10/2/24, effective 11/6/24]

281—41.1101(256B,34CFR300) Severability. Should any rule or subrule in this chapter be declared invalid by a court of competent jurisdiction, every other rule and subrule not affected by that declaration of invalidity remains valid.
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

281—41.1102(256B,34CFR300) Rule of construction. Language adopted pursuant to 2020 Iowa Acts, House File 2585, is to be construed in a manner consistent with federal law and shall not be construed to confer any different or greater right or responsibility under this chapter.
[**ARC 7792C**, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapter 256B, the 2004 amendments to the Individuals with Disabilities Education Act, and Part 300 of Title 34 of the Code of Federal Regulations published in the Federal Register on August 14, 2006.

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[1] Effective date of Chapter 12 delayed 70 days by the Administrative Rules Review Committee. Delay lifted by Committee on 7/8/85.

[2] Effective date of 41.2(3); 41.3(256B), definitions of "Autism," "Head injury," "Transition services," "Behaviorally disordered," paragraph "1," "Special education support programs and services"; 41.4(1); 41.18(2)*"d"*; 41.33(4); 41.33(6) delayed 70 days by the Administrative Rules Review Committee at its meeting held August 3, 1993; delay lifted by this Committee on 9/15/93.

CHAPTER 42
Reserved

TITLE VIII
SCHOOL TRANSPORTATION

CHAPTER 43
PUPIL TRANSPORTATION

[Prior to 9/7/88, see Public Instruction Department[670] Ch 22]

Chapter rescission date pursuant to Iowa Code section 17A.7: 5/22/29

DIVISION I
TRANSPORTATION ROUTES

281—43.1(285) Intra-area education agency routes.

43.1(1) Bus routes within the boundaries of transporting districts as well as within designated areas will be as efficient and economical as possible under existing conditions.

43.1(2) The riding time, under normal conditions, from the designated stop to the attendance center, or on the return trip, will not exceed 75 minutes for high school pupils or 60 minutes for elementary pupils. A school district may extend the riding time limits up to 15 minutes subsequent to a public hearing. (These limits may be waived upon request of the parents.)

43.1(3) Pupils whose residence is within two miles of an established stop on a bus route are within the area served by the bus and are not eligible for parent or private transportation at public expense to the school served by the bus, except as follows:

a. Bus is fully loaded.

b. Physical disability makes bus transportation impractical.

All parents or guardians who are required by their school district to furnish transportation for their children up to two miles to an established stop on a bus route shall be reimbursed pursuant to Iowa Code section 285.1(4).

43.1(4) Transporting districts are to arrange routes to provide the greatest possible convenience to the pupils. The distance for pupils who are required to travel to meet the bus is to be kept to the minimum consistent with road conditions, uniform standards, and legal provisions for locating bus routes.

43.1(5) Each bus route will be reviewed annually by local transportation staff for safety hazards, and a record of the annual review maintained.

[**ARC 7793C**, IAB 4/17/24, effective 5/22/24]

281—43.2(285) Interarea education agency routes.

43.2(1) Joint consultation will be held by the area education agency boards involved. The initial steps may be undertaken by the area education agency administrators. If there are no difficulties and agreement is reached, the route is approved and no further action need be taken.

43.2(2) If agreement is not reached in the initial attempt, the administrator of the area education agency in which the applying school is located will advise the superintendent of reasons for failure to reach agreement and request that the superintendent revise the transportation plan to meet the objection and resubmit same.

43.2(3) If the area education agency boards do not reach agreement on the route, the home area education agency administrator will forward the complete record of the case together with disapproved transportation plan to the state department of education. Every effort should be made, however, to settle the matter locally.

43.2(4) All legal provisions, standards and regulations applying to approval and operation of bus routes apply equally to interarea education agency bus routes.

43.2(5) All interarea education agency bus routes are to be approved each year. If there has been no change in the designations, nor in the proposed route, the transportation plan may be made and agreement indicated by letter.

[**ARC 7793C**, IAB 4/17/24, effective 5/22/24]

DIVISION II
PRIVATE CONTRACTORS

281—43.3(285) Contract necessary. All private contractors wishing to transport pupils to and from school in privately owned vehicles are to be under contract with the local board of education. This rule does not apply to individuals who transport their own children or other children on a not-for-hire basis.

The contract will include, but not be limited to, all provisions prescribed by the department of education.

[**ARC 7793C**, IAB 4/17/24, effective 5/22/24]

281—43.4(285) Uniform charge. The contract will provide for a uniform charge for all pupils transported. No differentiations may be made between pupils of different districts except as provided in Iowa Code section 285.1(12). A private contractor may establish a variance in fees when differences in how transportation is provided are necessary in order to meet student needs.

[**ARC 7793C**, IAB 4/17/24, effective 5/22/24]

281—43.5(285) Board to be a party. The contractor may not arrange with individual families for transportation. The contractor undertakes to transport only those families indicated by the board of education.

[**ARC 7793C**, IAB 4/17/24, effective 5/22/24]

281—43.6(285) Contract with parents. Parents, guardians, or custodians undertaking to transport other children for hire, in addition to their own, are private contractors. These individuals are to be under contract and obtain an appropriate driver's license and a school bus driver's authorization.

[**ARC 7793C**, IAB 4/17/24, effective 5/22/24]

281—43.7(285) Vehicles. Any vehicle used, other than that used by individuals to transport their own children or other children on a not-for-hire basis, is considered to be a school bus and is to meet all requirements for the type of vehicle used, including semiannual inspection. This rule is not intended to govern the use of passenger vehicles during the time the vehicles are not actually engaged in transporting school pupils.

[**ARC 7793C**, IAB 4/17/24, effective 5/22/24]

DIVISION III
FINANCIAL RECORDS AND REPORTS

281—43.8(285) Required charges. Full pro rata costs are to be charged and collected for the transportation of all nonresident pupils. No differentiation may be made in charges due to differences in distance or grade in school.

[**ARC 7793C**, IAB 4/17/24, effective 5/22/24]

281—43.9(285) Activity trips deducted. Transporting school districts that use their equipment for activity trips, educational tours, or other types of transportation services as permitted in Iowa Code section 285.10(9) and 285.10(10) are to deduct the cost of trips from the total yearly transportation cost. These costs may not be included in the pro rata costs that determine the charge to sending districts.

[**ARC 7793C**, IAB 4/17/24, effective 5/22/24]

DIVISION IV
USE OF SCHOOL BUSES OTHER THAN FOR ROUTES

281—43.10(285) Permitted uses listed. School buses may be used to transport pupils under the following conditions:

43.10(1) The program is a part of the regular or extracurricular program of a public school and has been so adopted and made a matter of record in the minutes of all the boards involved.

43.10(2) The pupils are enrolled in a public or accredited nonpublic school.

43.10(3) The program or activity is sponsored by a school or group of schools cooperatively and is under the direct control of a qualified staff member of a school district.

43.10(4) The bus will be driven by an approved driver holding an appropriate driver's license and a school bus driver's authorization. In addition, the buses will be accompanied by a member of the faculty or other employee of the school or a parent or other adult volunteer as authorized by a school administrator who will be responsible for the conduct and the general supervision of the pupils on the bus and at the place of the activity. This person shall ride the bus. If the faculty member is an approved driver, that person can act both as a driver and faculty sponsor.

43.10(5) School buses may be used by an organization of, or sponsoring activities for, senior citizens, children, individuals with disabilities, and other persons and groups, and for transportation of persons other than pupils to activities in which pupils from the school are participants or are attending the activity or for which the school is a sponsor under the following conditions:

a. The "school bus" signs are covered and the flashing warning lamps and stop arm made inoperable when the bus is being used in a nonschool-sponsored activity.

b. Transportation outside the state of Iowa is not provided without the approval of the Federal Motor Carrier Safety Administration of the United States Department of Transportation.

c. A chaperone rides each bus to assist the passengers in boarding and disembarking from the bus and to aid them in case of illness or injury.

d. The driver of the bus is approved by the local board of education and possesses an appropriate driver's license and a school bus driver's authorization.

e. The driver of the bus observes all motor vehicle laws for school buses at all times.

43.10(6) The bus meets passenger seating requirements.

a. Each passenger has a seat, with no part of the passenger's body extending into the aisle.

b. Student passengers have a minimum of 13 inches of allowable seating per person.

c. For adult groups, no more than two persons occupy a 39-inch seat.

d. Standees are prohibited in all situations, whether the bus is transporting students or adults.

e. The maximum number of passengers never exceeds the rated capacity of the vehicle as it is equipped.

f. Districts with buses utilizing 3-point lap-shoulder belts adopts a board policy regarding use of these lap-shoulder belts by passengers.

[**ARC 7793C**, IAB 4/17/24, effective 5/22/24]

DIVISION V
THE BUS DRIVER

281—43.11(285) Driver age. School bus drivers must be at least 18 years of age on or before August 1 preceding the opening of the school year for which a school bus driver's authorization is required.

[**ARC 7793C**, IAB 4/17/24, effective 5/22/24]

281—43.12(285) Physical fitness.

43.12(1) *General.* Except for insulin-dependent diabetics, an applicant for a school bus driver's authorization is to undergo a biennial physical examination by a certified medical examiner who is listed on the National Registry of Certified Medical Examiners. The applicant will submit annually to the applicant's

employer the signed medical examiner's certificate pursuant to Federal Motor Carrier Safety Administration regulations 49 CFR Sections 391.41 to 391.49, all as effective on February 7, 2024, indicating, among other requirements, sufficient physical capacity to operate the bus effectively and to render assistance to the passengers in case of illness or injury and freedom from any communicable disease. At the discretion of the chief administrator or designee of the employer or prospective employer, the chief administrator or designee shall evaluate the applicant's ability in operating a school bus, including all safety equipment, in providing assistance to passengers in evacuation of the school bus, and in performing other duties required of a school bus driver.

43.12(2) *Insulin-dependent diabetics.* A person who is an insulin-dependent diabetic may qualify to be a school bus driver if the person meets all qualifications of Iowa Code section 321.375(3). Such driver is subject to an annual physical examination by a qualified medical examiner as listed in subrule 43.12(1).

[**ARC 7793C**, IAB 4/17/24, effective 5/22/24; **ARC 8240C**, IAB 10/2/24, effective 11/6/24]

281—43.13(285) Authorization.

43.13(1) *General.* The local board of education or its designee will issue a school bus driver's authorization for each approved driver annually once the provisions of Iowa Code section 321.375 are satisfied.

43.13(2) *Authorization to be carried by driver.* Every school bus driver is to carry a copy of the driver's school bus driver's authorization at all times when the driver is acting in that capacity.

43.13(3) *Authorization denials and revocations.* A person who believes that a school bus driver who holds an authorization issued by the department of education or who seeks a school bus authorization has committed acts in violation of Iowa Code section 321.375(2) may file a complaint with the department against the driver or applicant. The department will notify the driver or applicant that a complaint has been filed and provide the driver or applicant with a copy of the complaint. A hearing will be set for the purpose of determining whether the bus driver's authorization will be denied, suspended, or revoked, or whether the bus driver should receive a reprimand or warning. Hearing procedures in 281—Chapter 6 apply to such proceedings. No school bus driver or applicant may retain or obtain employment if the local district finds that the individual is listed on the sex offender registry under Iowa Code section 692A.121 available to the general public, the central registry for child abuse information established under Iowa Code section 235A.14, or the central registry for dependent adult abuse information established under Iowa Code section 235B.5. A hearing conducted pursuant to Iowa Code section 321.375(3) or 321.376 is to be limited to the question of whether the school bus driver or applicant was incorrectly listed on the registry. The driver or applicant will not serve in the capacity of a school bus driver while the appeal process is being conducted.

[**ARC 7793C**, IAB 4/17/24, effective 5/22/24]

281—43.14(321) Fee collection and distribution of funds. The department of education will assess a fee for semiannual school bus inspections for each vehicle inspected by the department. The department will present for payment a fee statement to the owner of each vehicle inspected. For districts transporting pupils through a private contractor under rule 281—43.3(285), the fee statement will be presented to the contracting district for payment.

The department of education will submit an annual budget request for an amount equal to 100 percent of the total projected fees to be collected during the next fiscal year, which is to be based on an amount equal to the number of vehicle inspections completed during the previous school year multiplied by the inspection fee authorized by statute.

[**ARC 7793C**, IAB 4/17/24, effective 5/22/24]

DIVISION VI
PURCHASE OF BUSES

281—43.15(285) Local board procedure. The board of education will proceed as follows in purchasing school buses:

43.15(1) Request bids unless the bus is a used or demonstrator bus.

43.15(2) Notify dealers of intent to purchase school transportation equipment and request bids.

43.15(3) Reserve right to reject all bids.

43.15(4) Require all bids to be on comparable equipment that meets all state and federal requirements.

43.15(5) Hold an open meeting for dealers to present merits of their equipment.

43.15(6) Review bids, tabulate all bids, and make a record of action taken.

43.15(7) Sign contracts or orders for purchase of school transportation equipment. The purchase agreement must provide that the dealer will deliver equipment that will pass initial state inspection at no further cost to the school.

43.15(8) Notify the department of education of delivery so that arrangements can be made for the initial school bus inspection. No school bus may be put into service until it has passed a pre-use inspection conducted, documented, and reported by the local board of education or its designee on a form prescribed by the department of education. The initial school bus inspection will be conducted at the earliest possible time convenient to the school and the department of education.

[**ARC 7793C**, IAB 4/17/24, effective 5/22/24]

281—43.16(285) Financing. The board of education may finance purchase of transportation equipment as follows:

43.16(1) The board may pay all of the cost of each bus from funds on hand in the general fund or other funds allowed by statute.

43.16(2) Bonds may be voted to purchase equipment, and funds so derived are to be used for that purpose.

[**ARC 7793C**, IAB 4/17/24, effective 5/22/24]

DIVISION VII
MISCELLANEOUS PROVISIONS

281—43.17(285) Semiannual inspection. To facilitate the semiannual inspection program, school and school district officials shall send all vehicles used for student transportation to designated inspection locations as scheduled. A sufficient number of drivers or other school personnel shall be available at the inspection to operate the equipment for the inspectors. The fee for each vehicle inspected is $50.

[**ARC 7793C**, IAB 4/17/24, effective 5/22/24]

281—43.18(285) Maintenance record. School officials shall cause the chassis of all vehicles used for student transportation, whether publicly or privately owned, to be inspected annually and all necessary repairs made before the vehicle is put into service. The inspection and repairs will be recorded on a form prescribed by the department of education. The completed form is to be signed and dated by the mechanic and carried in the glove compartment of the bus.

[**ARC 7793C**, IAB 4/17/24, effective 5/22/24]

281—43.19(285) Drivers' schools. All school bus drivers shall attend classes or schools of instruction as approved by the department of education and provided for in Iowa Code section 321.376(2). All new drivers will, within the first six months of employment, successfully complete the "new driver STOP class" approved by the department. All current school bus drivers are to attend the annual course of instruction. Upon missing a year of instruction, a current driver must successfully complete the course of instruction for new drivers prior to receiving an authorization. The employer of a school bus driver may impose additional training for any new or current driver.

[**ARC 7793C**, IAB 4/17/24, effective 5/22/24]

281—43.20(285) Insurance. The board of education will carry insurance on all school-owned buses and see that insurance is carried by all contractors engaged in transporting pupils for the district in the coverages and limits as determined by the board of education.

[**ARC 7793C**, IAB 4/17/24, effective 5/22/24]

281—43.21(285) Contract—privately owned buses. The board of education and a contractor who undertakes to transport school pupils for the board, in privately owned vehicles, shall sign a contract that includes the following provisions:

43.21(1) To furnish and operate at the contractor's own expense a legally approved vehicle of transportation transporting only children attending the school designated by the board of education.

43.21(2) To comply with all legal and established uniform standards of operation as required by statute or by legally constituted authorities.

43.21(3) To comply with all uniform standards established for protection of health and safety for pupils transported.

43.21(4) To comply with all rules and regulations adopted by the board of education for the protection of the children, or to govern the conduct of the driver of bus.

43.21(5) To keep bus in good mechanical condition and up to standards required by statutes or by legally constituted authorities.

43.21(6) To take school bus to official inspection when held by state authorities with no additional expense to party of second part.

43.21(7) To use only drivers and substitute drivers who have been approved by the board of education and have been issued a current school bus driver's authorization.

43.21(8) To furnish the board of education an approved certificate of medical examination for each person who is approved by the board of education to drive the bus.

43.21(9) To attend a school of instruction for bus drivers as prescribed by the department of education. (If the owner does not drive the bus, the regular approved driver of the bus shall attend.)

43.21(10) To carry insurance on bus and pupils in the coverages and limits as determined by the board of education, with a copy of the policy filed with superintendent of schools.

43.21(11) To make such reports as may be required by state department of education, area education agency board of education, and superintendent of schools.

43.21(12) To use the school bus only for transporting regularly enrolled students to and from public school and to extracurricular activities approved and designated by the board of education and further to comply with all legal restrictions on use of bus.

43.21(13) To obtain, if possible, the license plate numbers of all vehicles violating the school bus passing law, Iowa Code section 321.372, and file information for prosecution.

43.21(14) To reserve the right of the board of education to change routing of the bus and, if additional mileage is required, allow for an extra cost.

43.21(15) To ensure immoral conduct or the use of alcoholic beverages by the contractor or driver employed by the contractor shall result in appropriate sanctions as provided in Iowa Code section 321.375.

43.21(16) To allow the contract to be terminated on 90-day notice by either party as provided by Iowa Code section 285.5(4).

43.21(17) An agreement that, if the contractor desires to terminate the contract, the school bus will be sold to the board of education at its request as provided in Iowa Code section 285.5(1). This provision does not apply to a passenger vehicle used as a school bus.

[**ARC 7793C**, IAB 4/17/24, effective 5/22/24]

281—43.22(285) Contract—district-owned buses. The board of education and a private individual undertaking to transport school pupils for the board in school district-owned vehicles shall sign a contract substantially similar to that prescribed by the department of education. The contract will contain the following provisions:

43.22(1) To conform to all rules of the board of education in and for the district adopted for the protection of the children and to govern the conduct of the person in charge of the conveyance.

43.22(2) To make reports as may be required by the department of education, area education agency, or superintendent of schools.

43.22(3) To conform to all standards for operation of the school buses as provided by statute or by legally constituted authorities.

43.22(4) That the employee is entitled to benefits as outlined in the school board policy for the school district.

43.22(5) To attend a school of instruction for bus drivers as prescribed by the department of education.

43.22(6) That the employer may terminate the contract and dismiss the employee for failure to conform to all laws of the state of Iowa and rules promulgated by the Iowa department of education applicable to drivers of school buses.

43.22(7) That the contract is not in force until the driver presents an official school bus driver's authorization.

[**ARC 7793C**, IAB 4/17/24, effective 5/22/24]

281—43.23(285) Railroad crossings. The driver of any school bus will comply with Iowa Code section 321.343, regardless of whether or not there are any pupils in the bus, and regardless of whether or not there is an automatic signal at the crossing. After stopping, the driver shall open the entrance door, shall look and listen for approaching trains, and shall not proceed to cross the tracks until it is safe to do so.

[**ARC 7793C**, IAB 4/17/24, effective 5/22/24]

281—43.24(285) Driver regulations.

43.24(1) The driver of a school vehicle shall not smoke in the vehicle or on any school property.

43.24(2) The driver shall not permit firearms or other weapons, nor ammunition, to be carried in the passenger compartment of any school vehicle transporting pupils.

43.24(3) The driver shall not fill the fuel tank while the motor is running or when there are passengers in the vehicle.

43.24(4) The driver shall ensure that aisles and exits are not blocked.

[**ARC 7793C**, IAB 4/17/24, effective 5/22/24]

281—43.25(285) Civil defense projects. Civil defense projects may be recognized by the board of directors of any school district as an authorized extracurricular activity.

43.25(1) The use of school buses for field trips and exercises, and the planned use of school buses in connection with actual emergency procedures to be carried on in cooperation with local, state or national authorities, civil or military, is hereby defined as properly incident to such authorized extracurricular activity.

43.25(2) The bus will be driven by an approved driver holding an appropriate driver's license and a school bus driver's authorization except that in actual emergency situations, where approved drivers are not available, other drivers, including students and teachers, may be used if allowed by local school board policy.

[**ARC 7793C**, IAB 4/17/24, effective 5/22/24]

281—43.26(285) Pupil instruction. At least twice during each school year, once in the fall and once in the spring, each pupil who is transported in a school vehicle shall be instructed in safe riding practices and participate in emergency evacuation drills. Documentation of these drills will be maintained locally for five years and made available upon request.

[**ARC 7793C**, IAB 4/17/24, effective 5/22/24]

281—43.27(285) Trip inspections.

43.27(1) A pretrip inspection of each school vehicle will be performed and recorded prior to each trip to determine if any defects or deficiencies exist that may affect the safety of the vehicle's operation or result in its mechanical breakdown. The pretrip inspection report is to be signed by the driver and submitted promptly to the person responsible for the school transportation program. Any deficiencies that merit an OOS (out of service) rating pursuant to department of education school bus inspection guidelines must be repaired prior to use of the vehicle. All other deficiencies should be repaired as soon as possible but do not bar the use of the vehicle.

43.27(2) A posttrip inspection of the interior of the school vehicle shall be performed after each trip to ensure no passengers remain.

[**ARC 7793C**, IAB 4/17/24, effective 5/22/24]

281—43.28(285) Loading and unloading areas. Restricted loading and unloading areas will be established for school buses at or near schools.
[**ARC 7793C**, IAB 4/17/24, effective 5/22/24]

281—43.29(285) Communication equipment. Each school bus is to have a communications system capable of communication between the driver of the bus and the school's base of operations for school transportation.
[**ARC 7793C**, IAB 4/17/24, effective 5/22/24]

DIVISION VIII
COMMON CARRIERS

281—43.30(285) Standards for common carriers. This rule applies to any vehicle operated by a common carrier when used exclusively for student transportation to and from school. "Common carrier" refers to a person or entity in the business of transporting goods or people for hire as a public service.

43.30(1) *Vehicles.*

a. The vehicles need not be painted yellow and black as required for conventional school buses.

b. The vehicles, while transporting children to and from school, are to be equipped with temporary signs, located conspicuously on the front and back of the vehicle. The sign on the front is to have the words "School Bus" printed in black letters six inches high, on a background of National School Bus Yellow. The sign on the rear is to be painted National School Bus Yellow and have the words "School Bus" printed in black letters six inches high. The colors are to conform to those described within 281—subrule 44.3(10).

43.30(2) *Drivers.*

a. The driver is to have an appropriate driver's license issued by the Iowa department of transportation.

b. The driver is to possess a school bus driver's authorization issued by the Iowa department of education.

c. The driver will receive training in accordance with state statutes and rules for school bus drivers.

43.30(3) *Seating.* Each passenger is to have a seat; standees are prohibited. No passenger may be present in the bed of a pickup when the vehicle is being operated.

43.30(4) *Loading and unloading procedures.*

a. The vehicle is to pull close enough to the curb to prevent another vehicle from passing on its right side.

b. If the vehicle is not equipped with flashing warning lights and stop arm, or if use of this equipment is not allowed by law, the pupils, on unloading, are to be instructed to remain at the curb until the bus has pulled away and it is safe for them to cross the street.

43.30(5) *Inspection of vehicles.*

a. Drivers are to perform pretrip inspections of their vehicles to determine if any defects or deficiencies exist that may affect the safety of the vehicle's operation or result in its mechanical breakdown. The pretrip inspection report is to be submitted promptly to the person charged with maintenance of the vehicle. Any defects or deficiencies that merit an OOS (out of service) rating pursuant to department of education school bus inspection guidelines are to be repaired prior to use of the vehicle. All other defects or deficiencies should be repaired as soon as possible but do not bar the use of the vehicle.

b. Vehicles are to be inspected semiannually by personnel of the department of education in accordance with the provisions of Iowa Code section 285.8(4).

43.30(6) *Other provisions.*

a. Local school officials are to provide the carrier with passenger conduct rules and the driver is to abide by the policies and procedures established by the local district.

b. Student instruction for passenger safety is the responsibility of the local school district as specified in rule 281—43.26(285).

[**ARC 7793C**, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapter 285.

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[1] November 19, 2014, effective date of 43.15[ARC 1661C] delayed 70 days by the Administrative Rules Review Committee at its meeting held November 18, 2014. At its meeting held December 12, 2014, the Committee delayed the effective date of 43.15 until the adjournment of the 2015 Session of the General Assembly.

CHAPTER 44
SCHOOL BUSES

[Prior to 8/10/88, see Public Instruction Department[670] Ch 23]

Chapter rescission date pursuant to Iowa Code section 17A.7: 5/22/29

281—44.1(285) Requirements for manufacturers. In order to protect both the boards of education and manufacturers of school transportation vehicles and equipment from misunderstanding and confusion, all manufacturers shall provide equipment meeting all Iowa vehicle construction requirements described in this chapter as well as all federal statutes, regulations, industry standards, and technical documents incorporated in this chapter by reference that are in effect on February 7, 2024, and all applicable federal motor vehicle safety standards (FMVSS) that are in effect on February 7, 2024, which include the following:

101—Control location, identification, and illumination.
102—Transmission shift lever sequence, starter interlock, and transmission braking effect.
103—Windshield defrosting and defogging systems.
104—Windshield wiping and washing systems.
105—Hydraulic braking systems.
106—Brake hoses.
107—Reflecting surfaces.
108—Lamps, reflective devices, and associated equipment.
109—New pneumatic tires.
110—Tire selection and rims.
111—Rearview mirrors.
113—Hood latch systems.
116—Motor vehicle brake fluids.
119—New pneumatic tires for vehicles other than passenger cars.
120—Tire selection and rims for motor vehicles other than passenger cars.
121—Air brake systems.
124—Accelerator control systems.
131—School bus pedestrian safety devices.
205—Glazing materials.
206—Door locks and door retention components.
207—Seating systems.
208—Occupant crash protection.
209—Seat belt assemblies.
210—Seat belt assembly anchorages.
217—Bus window retention and release.
219—Windshield zone intrusion for vehicles with a GVWR of 10,000 pounds or less.
220—School bus rollover protection.
221—School bus body joint strength.
222—School bus passenger seating and crash protection.
301—Fuel system integrity.
302—Flammability of interior materials.
303—Fuel system integrity of compressed natural gas vehicles.
304—Compressed natural gas fuel container integrity.

[**ARC 7794C**, IAB 4/17/24, effective 5/22/24; **ARC 8240C**, IAB 10/2/24, effective 11/6/24]

281—44.2(285) School bus—type classifications. A bus owned, leased, contracted to or operated by a school or school district and regularly used to transport students to and from school or school-related activities, but not including a charter bus or transit bus, meets all applicable FMVSS, and is readily identified by alternately flashing lights, National School Bus Glossy Yellow (NSBY) paint, and the legend

"School Bus." Schools and school districts in Iowa are not allowed to own or lease motor coaches but may charter them for activities.

44.2(1) *Type A.* A Type A school bus is a conversion or bus constructed utilizing a cutaway front-section vehicle with a left side driver's door. This definition includes two classifications: Type A-1, with a gross vehicle weight rating (GVWR) of 14,500 pounds or less; and Type A-2, with a GVWR greater than 14,500 and less than or equal to 21,500 pounds.

44.2(2) *Type B.* A Type B school bus is constructed utilizing a stripped chassis. The entrance door is behind the front wheels. This definition includes two classifications: Type B-1, with a GVWR of 10,000 pounds or less; and Type B-2, with a GVWR greater than 10,000 pounds.

44.2(3) *Type C.* A Type C school bus, also known as a conventional school bus, is constructed utilizing a chassis with a hood and front fender assembly. The entrance door is behind the front wheels. This type of school bus also includes the cutaway truck chassis or truck chassis with cab with or without a left side door and with a GVWR greater than 21,500 pounds.

44.2(4) *Type D.* A Type D school bus, also known as a rear or front engine transit-style school bus, is constructed utilizing a stripped chassis. The entrance door is ahead of the front wheels.

44.2(5) *Type III.* Type III vehicles are not regular school buses but nonetheless are used to transport students in a school-related context and may be marked as a "school bus." To qualify as a Type III vehicle, the vehicle may carry a maximum of 12 or fewer people, including the driver, and weigh 10,000 pounds or less. These vehicles will be subject to school bus inspections per Iowa Code and rule.

44.2(6) *Specially equipped.* A specially equipped school bus is a school bus designed, equipped, or modified to accommodate students with special needs.

44.2(7) *Multifunction school activity bus (MFSAB).* A multifunction school activity bus is a school bus whose purposes do not include transporting students to and from home or school bus stops as defined in 49 CFR 571.3. MFSABs meet all FMVSS for school buses except the traffic control requirements (alternately flashing signal and stop arm). These vehicles will be subject to school bus inspections per Iowa Code and rule.

[**ARC 7794C**, IAB 4/17/24, effective 5/22/24]

281—44.3(285) School bus body and chassis specifications.

44.3(1) *Aisle.* All emergency doors shall be accessible by a 12-inch minimum aisle. Aisles are to be unobstructed at all times by any type of barrier, seat, wheelchair, tie-down, or other object(s), with the exception of a flip seat that is installed and occupied at a side emergency door position. The track of a track-seating system is exempt from this subrule. A flip seat in the unoccupied (up) position is not to obstruct the 12-inch minimum aisle to any side emergency door.

44.3(2) *Axles.* The front and rear axle and suspension systems are to have gross axle weight rating (GAWR) at ground commensurate with the respective front and rear weight loads that will be imposed by the bus.

44.3(3) *Backup warning alarm.* An automatic audible alarm shall be installed behind the rear axle on every school bus/MFSAB and comply with the published Backup Alarm Standards (SAE J994B), providing a minimum of 112 dBA. A variable volume feature is not allowed.

44.3(4) *Body sizes.* Type A vehicles may be purchased with manufacturer's recommended seating capacities when the chassis is manufactured with rear dual tires.

44.3(5) *Brakes.*

a. Brakes, all, general requirements.

(1) All buses will have either a parking pawl in the transmission or a parking brake interlock that requires the service brake to be applied to allow release of the parking brake.

(2) All brake systems will be designed to permit visual inspection of brake lining wear without removal of any chassis component(s).

(3) The brake lines, booster-assist lines, and control cables will be protected from excessive heat, vibration and corrosion and installed in a manner that prevents chafing.

(4) The parking brake system may be of a power-assisted design. The power parking brake actuator should be a device located on the instrument panel within reach of a seated driver. As an option, the

parking brake may be set by placing the automatic transmission shift control mechanism in the "park" position.

(5) Every vehicle is to be equipped with a signal that provides a warning to the driver when a failure occurs in the vehicle's brake system. A warning signal will be audible and visible to the driver. A Type A vehicle under 10,000 lbs. GVWR may have a visible warning signal only.

(6) The power-operated parking brake system may be interlocked to the engine key switch. Once the parking brake has been set and the ignition switch turned to the "off" position, the parking brake cannot be released until the key switch is turned back to the "on" position.

b. Air brakes, general requirements.

(1) The air pressure supply system will include a desiccant-type air dryer installed according to the manufacturer's recommendations. The air pressure storage tank system may incorporate an automatic drain valve.

(2) The manufacturer will provide an accessory outlet for other air-operated systems installed in or on the bus. This outlet is to include a pressure protection valve to prevent loss of air pressure in the service brake reservoir.

(3) For air brake systems, an air pressure gauge capable of complying with commercial driver's license (CDL) pre-trip inspection requirements will be provided in the instrument panel.

(4) Air brake systems will include a system for anticompounding of the service brakes and parking brakes.

c. Brakes, all, specific requirements.

(1) The braking system shall include the service brake, an emergency brake that is part of the service brake system and controlled by the service brake pedal, and a parking brake meeting FMVSS at date of manufacture.

(2) An air brake system is required on every chassis meeting one or more of the following:

1. Wheelbase equal to or greater than 274 inches.

2. Designed seating capacity rating greater than 66 passengers. Designed seating capacity, also known as manufacturer's seating capacity, is the actual or theoretical passenger capacity of the vehicle if it were constructed with the maximum number of seating positions.

(3) An air brake system is to comply with the following system and component designs:

1. The system cannot be of wedge design.

2. The system will include an air dryer system having design features equal to or exceeding the Bendix Westinghouse Model AD9. The system is to be self-purging and capable of removing oil, dirt, and moisture. The dryer system will also be equipped with a heater to prevent the freezing of moisture within the system. All plumbing from air compressor to input of air dryer or after-cooler will provide soft flow bends not producing sumps in the air compressor line having direct entry into the dryer.

3. A system of automatic adjustment compensating for service brake wear is to be installed at all wheel positions.

4. The air compressor produces a minimum output of 12.0 cubic feet per minute (CFM).

(4) Vehicles with 10,000 pounds GVWR or less will be equipped with a hydraulic, dual-braking system of manufacturer's standard, with power assist.

44.3(6) *Bumper, front.*

a. All school buses will be equipped with a front bumper painted glossy black, a chrome front bumper, or a front bumper coated with a black corrosion-resistant texturized material.

b. The front bumper on buses of Type A-2 (with GVWR greater than 14,500 pounds), Type B, Type C, and Type D is to be equivalent in strength and durability to pressed steel channel at least 3/16 inches thick and not less than 8 inches wide (high). The front bumper will extend beyond the forward-most part of the body, grille, hood and fenders and extend to the outer edges of the fenders at the bumper's top line. Type A buses having a GVWR of 14,500 pounds or less may be equipped with an original equipment manufacturer (OEM)-supplied front bumper.

c. The front bumper, except breakaway bumper ends, is to be of sufficient strength to permit pushing a vehicle of equal gross vehicle weight without permanent distortion to the bumper, chassis or body.

d. The bumper will be designed or reinforced so that it will not deform when the bus is lifted by a chain that is passed under the bumper (or through the bumper if holes are provided for this purpose) and attached to both tow hooks/eyes.

e. Tow eyes or hooks are required on Type B, C, and D buses of 14,501 pounds GVWR or greater. Two tow eyes or hooks are to be installed by the bus manufacturer so as not to project beyond the front bumper.

f. An optional energy-absorbing front bumper may be used, provided its design incorporates a self-restoring, energy-absorbing system of sufficient strength to:

(1) Push another vehicle of similar GVWR without permanent distortion to the bumper, chassis, or body; and

(2) Withstand repeated impacts without damage to the bumper, chassis, or body according to the following performance standards:

1. 7.5 mph fixed-barrier impact (FMVSS cart and barrier test).
2. 4.0 mph corner impact at 30 degrees (Part 581, CFR Title 49).
3. 20.0 mph into parked passenger car (Type B, C, and D buses of 18,000 pounds GVWR or more).

The manufacturer of the energy-absorbing bumper system is to provide evidence of conformance to the above standards from an approved test facility capable of performing the above FMVSS tests.

44.3(7) *Bumper, rear.*

a. All school buses are to be equipped with a rear bumper painted glossy black or coated with a black corrosion-resistant texturized material.

b. The rear bumper is to be pressed steel channel or equivalent material, at least 3/16 inches thick and is to be a minimum of 8 inches wide (high) on Type A-2 vehicles and a minimum of 9½ inches wide (high) on Type A-1, B, C and D buses. The rear bumper will be of sufficient strength to permit its being pushed by another vehicle without permanent distortion to the bumper, body, or chassis.

c. The rear bumper will be wrapped around the back corners of the bus. It is to extend forward at least 12 inches, measured from the rear-most point of the body at the floor line and is to be flush-mounted to the body side or protected with an end panel.

d. The rear bumper will be attached to the chassis frame in such a manner that the bumper may be easily removed. It is to be braced so as to resist deformation of the bumper resulting from a rear or side impact and designed so as to discourage the hitching of rides.

e. The bumper is to extend at least 1 inch beyond the rear-most part of body surface measured at the floor line.

f. Additions or alterations to the rear bumper, including the installation of trailer hitches, are not allowed.

g. An optional energy-absorbing rear bumper may be used, provided a self-restoring, energy-absorbing bumper system attached to prevent the hitching of rides is of sufficient strength to:

(1) Permit pushing by another vehicle without permanent distortion to the bumper, chassis, or body; and

(2) Withstand repeated impacts without damage to the bumper, chassis, or body according to the following FMVSS performance standards:

1. 2.0 mph fixed barrier impact (FMVSS cart and barrier test).
2. 4.0 mph corner impact at 30 degrees (Part 581, CFR Title 49).
3. 5.0 mph center impact (Part 581, CFR Title 49).

The manufacturer of the energy-absorbing system will provide evidence of conformance to the above standards from an approved test facility capable of performing the above FMVSS tests.

44.3(8) *Certification.* The manufacturer(s) will, upon request, certify to the department of education that the manufacturer's product(s) meets Iowa minimum standards on items not covered by FMVSS certification provisions of 49 CFR Part 567.

44.3(9) *Color.*

a. Chassis will be black. Body cowl, hood, and fenders will be National School Bus Glossy Yellow. The flat top surface of the hood may be nonreflective National School Bus Glossy Yellow or flat black.

b. Wheels and rims will be gray, black, or National School Bus Glossy Yellow. Aluminum wheels are also allowed.

c. The grille is to be gray, black, chrome, or National School Bus Glossy Yellow.

d. The school bus body will be painted National School Bus Glossy Yellow. (See color standard, Appendix B, National School Transportation Specifications and Procedures Manual 2015.)

e. The body exterior trim will be glossy black, including the exterior lettering, numbering, body trim, rub rails, lamp hoods (if any), and emergency door arrow. This may also include the entrance door and window sashes. In addition, the rear bumper may be covered with a black retroreflective material as described in subrule 44.3(48). When the bus number is placed on the front or rear bumper, the number is to be National School Bus Glossy Yellow.

f. As an option, the roof of the bus may be painted white extending down to within 6 inches above the drip rails on the sides of the body, except that the vertical portion of the front and rear roof caps is to remain National School Bus Glossy Yellow.

g. Commercial advertising is forbidden on the exterior and in the interior of all school buses.

44.3(10) *Construction.*

a. The school bus body will be constructed of materials certified to be durable under normal operating conditions and meet all applicable FMVSS at the date of manufacture as certified by the bus body manufacturer.

b. Construction will be reasonably dustproof and watertight.

c. Body joints present in that portion of the Type A school bus body furnished exclusively by the body manufacturer will conform to the performance requirements of FMVSS No. 221. This does not include the body joints created when body components are attached to components furnished by the chassis manufacturer.

d. A flat floor system featuring no wheel wells and no step-up at the rear of the passenger compartment may be used in accordance with the following:

(1) The inside height of the body remains at least 72 inches, when measured in accordance with subrule 44.3(39), when this option is installed.

(2) If this option utilizes a raised floor that is stepped up behind the driver's area, the forward edge of the aisle has a white or yellow stripe and is labeled "Step Up" visible to passengers upon entering the aisle; and a label "Step Down" is visible to passengers as they exit the aisle. Minimum headroom of 72 inches is maintained at all times.

(3) A flat floor design provides for the additional option for a track-mounted seating system using button-type (L track) and a wheelchair securement system meeting Iowa specifications but mounting into the track of the track-seating system. Aisle clearances are maintained in accordance with these rules.

44.3(11) *Crossing control arms.*

a. Type A, B, and C school buses are to be equipped, and Type D buses may be equipped, with a crossing control arm that is mounted on the right side of the front bumper and that will not open more than 90 degrees. When opened, the crossing control arm will extend in a line parallel to the body side and aligned with the right front wheel.

b. All components of the crossing control arm and all connections are weatherproofed.

c. The crossing control arm is constructed of noncorrodible or nonferrous material or treated in accordance with the body sheet metal standard. See subrule 44.3(40).

d. There are no sharp edges or projections that could cause hazard or injury to students.

e. The crossing control arm extends a minimum of 70 inches from the front bumper when in the extended position. This measurement is to be taken from the arm assembly attachment point on the bumper. However, the crossing control arm does not extend past the ends of the bumper when in the stowed position.

f. The crossing control arm extends simultaneously with the stop arm(s) by means of the stop arm controls.

g. The crossing control arm system is designed to operate in extreme weather conditions, including freezing rain, snow and temperatures below 0 degrees Fahrenheit, without malfunctioning. The crossing

control arm itself is constructed of a material that will prevent the arm from prematurely extending or from failing to retract due to sustained wind or wind gusts of up to 40 miles per hour.

h. To ensure that the unit mounts flush and operates properly, the chassis bumper mounting bracket is designed for the specific model chassis on which it will be mounted.

i. A single, cycle-interrupt switch with automatic reset will be installed in the driver's compartment and be accessible to the driver from the driver's seat.

j. The assembly may include a device attached to the bumper near the end of the arm to automatically retain the arm while in the stowed position. That device is not to interfere with normal operations of the crossing control arm.

44.3(12) *Daytime running lights (DRL).* See subrule 44.3(31).

44.3(13) *Defrosters.*

a. Defrosting and defogging equipment direct a sufficient flow of heated air onto the interior surfaces of the windshield, the window to the left of the driver, and the glass in the viewing area directly to the right of the driver to eliminate frost, fog and snow.

b. The defrosting system conforms to SAE J381.

c. The defroster and defogging system is capable of furnishing heated outside ambient air; however, the part of the system furnishing additional air to the windshield, entrance door and step well may be of the recirculating air type.

d. Auxiliary fans are required; however, they are not considered defrosting or defogging systems. See also subrule 44.3(73).

e. Portable heaters shall not be used.

44.3(14) *Doors and exits.*

a. Service door.

(1) The service door will be heavy-duty power- or manually operated under the control of the driver and designed to afford easy release and prevent accidental opening. When a hand lever is used, no parts come together to shear or crush fingers. Manual door controls do not need more than 25 pounds of force to operate at any point throughout the range of operation. A power-operated door provides for manual operation in case of power failure. In all instances, the power-operated door control is to be located in the steering wheel or to the left or right of the driver.

(2) The primary service door is located on the right side of the bus opposite the driver and within the driver's direct view and will remain closed anytime the vehicle is in motion.

(3) The service door has a minimum horizontal opening of 24 inches and a minimum vertical opening of 68 inches.

(4) The entrance door is a split-type door that opens outward.

(5) All glass panels are of approved safety glass as defined in subrule 44.3(75). The bottom of each lower glass panel is not more than 10 inches from the top surface of the bottom step. The top of each upper glass panel is not more than 3 inches from the top of the door.

(6) Vertical closing edges on split or folding entrance doors are equipped with flexible material to protect children's fingers.

(7) There is no door to the left of the driver on Type B, C or D vehicles. All Type A vehicles may be equipped with the chassis manufacturer's standard left side (driver's side) door.

(8) All doors are equipped with padding at the top edge of each door opening. Padding is at least 3 inches wide and 1 inch thick and extends horizontally the full width of the door opening.

(9) A door-locking mechanism may be installed in accordance with subrule 44.3(72).

(10) On power-operated service doors, the emergency release valve, switch or device to release the service door is placed above the service door, to the right side of the driver console, or to the left or right of the service door and be clearly labeled. The emergency release valve, switch or device will work in the absence of power.

b. Emergency doors.

(1) Emergency door(s) and other emergency exits comply with the provisions of FMVSS No. 217 and any provision of these rules that exceed FMVSS No. 217.

(2) The exposed area of the upper panel of emergency doors is a minimum of 400 square inches of approved safety glazing. If installed, all other glass panels on emergency doors are of approved safety glazing.

(3) There shall be no steps leading to an emergency door.

(4) The emergency door(s) are equipped with padding at the top edge of each door opening. Padding is at least 3 inches wide and 1 inch thick and extends the full width of the door opening.

(5) There is to be no obstruction higher than ¼ inch across the bottom of any emergency door opening. Fasteners used within the emergency exit opening are free of sharp edges or burrs.

c. Emergency exit requirements.

(1) Any installed emergency exit complies with the design and performance requirements of FMVSS No. 217, applicable to that type of exit, whether or not that exit is required by FMVSS No. 217, and complies with any of the requirements of these rules that exceed FMVSS No. 217.

(2) An emergency exit may include either an emergency door or emergency exit-type windows. Where emergency exit-type windows are used, they are to be installed in pairs, one on each side of the bus. Type A, B, C, and D vehicles will be equipped with a total number of emergency exits as follows for the designed capacities of vehicles:

1. 0 to 42 passengers = 1 emergency exit per side and 1 roof hatch.
2. 43 to 78 passengers = 2 emergency exits per side and 2 roof hatches.
3. 79 to 90 passengers = 3 emergency exits per side and 2 roof hatches.

These emergency exits are in addition to the rear emergency door or rear pushout window/side emergency door combination required by FMVSS No. 217. Additional emergency exits installed to meet the capacity-based requirements of FMVSS No. 217 may be included to comprise the total number of exits specified. All roof hatches are to have design features as specified in subrule 44.3(73).

(3) Side and rear emergency doors and each emergency window exit are equipped with an audible warning device.

(4) Roof hatches are equipped with an audible warning device and work appropriately without the wiring becoming disconnected from the switch.

(5) Rear emergency windows on Type D rear-engine buses have a lifting-assistance device that will aid in lifting and holding the rear emergency window open.

(6) Side emergency windows may be either top-hinged or vertically hinged on the forward side of the window. No side emergency exit window will be located above a stop sign.

(7) On the inside surface of each school bus, located directly beneath or above all emergency doors and windows, is to be a "DO NOT BLOCK" label in a color that contrasts with the background of the label. The letters on this label are at least 1 inch high.

44.3(15) *Drive shaft.* The drive shaft is be protected by a metal guard or guards around the circumference of the drive shaft to reduce the possibility of its whipping through the floor or dropping to the ground if broken.

44.3(16) *Driver's compartment.*

a. A driver's document compartment or pouch is provided. The document compartment or pouch measures at least 17 inches × 12 inches × 4 inches. If a document pouch, rather than a covered compartment, is provided, it is located on the barrier behind the driver. It will be constructed of a material of equal durability to that of the covering on the barrier and have a lid or cover with a latching device to hold the cover or lid closed.

b. Mobile data terminals are allowed. Programs loaded on the data terminal will be specific to school bus operations such as passenger accountability, routing, navigation, emergency notification, tracking, messaging, and equipment monitoring.

(1) The data terminal is mounted within the driver's compartment in a location that allows the driver to see the data terminal display screen at a glance but does not obstruct the driver's view in any direction when the driver is seated in a normal driving position. This would include impeding the view of the road, mirrors, highway signs, signals, other instruments, entrance door, and passengers. The data terminal display screen and audio turn-by-turn instructions may remain active while the bus is in motion.

(2) Overhead mounting of the data terminal is not allowed. The device will not impede space within the aisle and will not be mounted in such a way as to be a snagging hazard in the student loading area of the service door.

(3) The data terminal is securely mounted to the vehicle when in use in such a way as to minimize sharp edges. The device may be removed when not in use.

(4) The data terminal is not to be connected to the passenger compartment sound system.

(5) Distractive manipulation of a data terminal is prohibited while the school bus is being driven. For the purposes of this subparagraph, "driven" means operating a school bus, with the motor running, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays such as picking up or discharging students. "Driven" does not include operating a school bus, with or without the motor running, when the school bus is legally stopped or parked upon the highway for a prolonged period of time.

c. Commercially produced pedal blocks or OEM adjustable pedals are allowed.

44.3(17) *Electrical system.*

a. Battery, does not include electric powertrain batteries.

(1) The storage batteries have a minimum cold cranking capacity rating (cold cranking amps) equal to the cranking current required for 30 seconds at 0 degrees Fahrenheit and a minimum reserve capacity rating of 120 minutes at 25 amps. Higher capacities may be necessary, depending upon optional equipment and local environmental conditions.

(2) The manufacturer will securely attach the battery on a slide-out or swing-out tray in a closed, vented compartment in the body skirt or chassis frame so that the battery is accessible for convenient servicing from the outside. When in the stored position, the tray is retained by a securing mechanism capable of holding the tray (with battery[ies]) in position. The battery compartment door or cover, if separate from the tray, is hinged at the front or top. It is secured by a positive operated latching system or other type fastener. The door may be an integral part of the battery slide tray. The door or cover will fit tightly to the body and not present sharp edges or snagging points. Battery cables meet Society of Automotive Engineers (SAE) requirements. Battery cables are of sufficient length to allow the battery tray to fully extend. Any chassis frame-mounted batteries will be relocated to a battery compartment on Type A buses.

(3) All batteries are to be secured in a sliding tray except that on van conversion or cutaway front-section chassis, batteries may be secured in accordance with the manufacturer's standard configuration. The battery cable provided with the chassis is of sufficient length to allow some slack and of sufficient gauge to carry the required amperage.

(4) The top surface area of the inside of the battery compartment (the area likely to come into contact with battery electrical terminals as the result of a blow to, and upward collapse of, the bottom of the battery box in the event of an accident or other event) is covered with a rubber matting or other impact-resistant nonconductive material. The matting is a minimum of ⅛ inch thick and covers the entire top inside surface of the battery box. The matting is securely installed to maintain its position at all times.

(5) Buses may be equipped with a battery shut-off switch. The switch is to be placed in a location not readily accessible to the driver or passengers.

b. Alternator.

(1) All Type A and Type B buses with a GVWR of 15,000 pounds or less have a minimum 130-amp alternator. Buses equipped with an electrically powered wheelchair lift, air conditioning, or both are to be equipped with the highest rated capacity available from the chassis OEM.

(2) All buses over 15,000 pounds GVWR are equipped with a heavy-duty truck- or bus-type alternator that has a minimum output rating of 200 amps or higher and that produces a minimum current output of 50 percent of the rating at engine idle speed.

(3) Buses other than those described in subparagraph 44.3(17)*"b"*(1) equipped with an electrically powered wheelchair lift, air conditioning, or both shall have a minimum alternator output of 240 amps.

(4) A belt-driven alternator is capable of handling the rated capacity of the alternator with no detrimental effect on any other driven components. (For estimating required alternator capacity, see School

Bus Manufacturers Technical Council's publication "School Bus Technical Reference," dated August 2001 and available at www.nasdpts.org.)

(5) A direct/gear-drive alternator is permissible in lieu of a belt-driven alternator.

c. Electrical components. Materials in electrical components shall contain no mercury.

d. Wiring, chassis.

(1) All wiring conforms to current applicable recommended practices of the Society of Automotive Engineers (SAE). All wiring uses color and at least one other method for identification. The other method is to be either a number code or name code, and each chassis will be delivered with a wiring diagram that illustrates the wiring of the chassis.

(2) The chassis manufacturer of an incomplete vehicle will install a readily accessible terminal strip or connector on the body side of the cowl or in an accessible location in the engine compartment of vehicles designed without a cowl. The strip or connector will contain the following terminals for the body connections:

1. Main 100-amp body circuit.
2. Tail lamps.
3. Right turn signal.
4. Left turn signal.
5. Stop lamps.
6. Backup lamps.
7. Instrument panel lights (rheostat controlled by headlamp switch).

(3) An appropriate identifying diagram (color plus a name or number code) for all chassis electrical circuits will be provided to the body manufacturer for distribution to the end user.

(4) Wiring for the headlamp system will be separate from the electronic controlled body solenoid/module.

e. Wiring, body.

(1) All wiring conforms to current applicable SAE recommended practices.

(2) All wiring has an amperage capacity exceeding the design load by at least 25 percent. All wiring splices are to be accessible and noted as splices on the wiring diagram.

(3) A body wiring diagram, sized to be easily read, will be furnished with each bus body or affixed to an area convenient to the electrical accessory control panel.

(4) The body power wire will be attached to a special terminal on the chassis.

(5) Each wire passing through metal openings will be protected by a grommet.

(6) Wires not enclosed within the body will be fastened securely at intervals of not more than 18 inches. All joints are to be soldered or joined by equally effective connectors, which are to be water-resistant and corrosion-resistant.

(7) Wiring will be arranged in circuits, as required, with each circuit protected by a fuse breaker or electronic protection device. A system of color- and number-coding will be used and an appropriate identifying diagram shall be provided to the end user, along with the wiring diagram provided by the chassis manufacturer. The wiring diagrams will be specific to the bus model supplied and include any changes to wiring made by the body manufacturer. The following body interconnecting circuits will be color-coded, as noted:

FUNCTION	COLOR
Left Rear Directional Lamp	Yellow
Right Rear Directional Lamp	Dark Green
Stop Lamps	Red
Back-Up Lamps	Blue
Tail Lamps	Brown
Ground	White
Ignition Feed, Primary Feed	Black

The color of the cables will correspond to SAE J1128, Low-Tension Primary Cable.

(8) Wiring will be arranged in at least six regular circuits, as follows:

1. Head, tail, stop (brake), clearance and instrument panel lamps;
2. Step well lamps, which are actuated when the entrance door is open;
3. Dome lamps;
4. Ignition and emergency door signal;
5. Turn signal lamps; and
6. Alternately flashing signal lamps.

(9) Any of the above combination circuits may be subdivided into additional independent circuits.

(10) Heaters and defrosters will be wired on an independent circuit.

(11) Whenever possible, all other electrical functions (such as sanders and electric-type windshield wipers) will be provided with independent and properly protected circuits.

(12) Each body circuit will be coded by number or letter on a diagram of circuits and attached to the body in a readily accessible location.

(13) Buses may be equipped with a 12-volt power port in the driver's area.

(14) There will be a manual noise suppression switch installed in the control panel. The switch is to be labeled and alternately colored. This switch will be an on/off type that deactivates body equipment that produces noise, including at least the AM/FM radio, heaters, air conditioners, fans and defrosters. This switch will not deactivate safety systems, such as windshield wipers or lighting systems.

44.3(18) *Emergency equipment.*

a. All Type A, B, C, and D school buses will be equipped with the following emergency equipment mounted forward of front barriers: first aid kit, fire extinguisher, webbing cutter, and body fluid cleanup kit. Three triangular warning devices are required in each vehicle and may be mounted in the driver's compartment or behind the rear seat.

b. All emergency equipment will be securely mounted so that, in the event the bus is overturned, this equipment is held in place. Emergency equipment, with the exception of the webbing cutter mounted in a location accessible to the driver, may be mounted in an enclosed compartment provided that the compartment is labeled in not less than 1-inch letters, stating the piece(s) of equipment contained therein.

c. Fire extinguishers will meet the following provisions:

(1) The bus will be equipped with at least one 5-pound capacity, UL-approved, pressurized dry chemical fire extinguisher complete with hose. The extinguisher will be securely mounted in a heavy-duty automotive bracket so as to prevent accidental release in case of a crash or in the event the bus overturns.

(2) A calibrated or marked gauge is to be mounted on the extinguisher to indicate the amount of pressure in the extinguisher and easily read without moving the extinguisher from its mounted position. Plastic discharge heads and related parts are not acceptable.

(3) The fire extinguisher will have a rating of 2A-10BC or greater. The operating mechanism will be sealed with a type of seal that will not interfere with the use of the fire extinguisher.

(4) All fire extinguishers are to be inspected and maintained in accordance with the National Fire Protection Association requirements.

(5) Each extinguisher will have a tag or label securely attached that indicates the month and year the extinguisher received its last maintenance and the identity of the person performing the service.

d. First aid kit. A first aid kit meeting the national recommendations (most current National School Transportation Specifications and Procedures Manual—first aid kit) is needed on all vehicles used for student transportation.

e. Body fluid cleanup kit. Each vehicle used for student transportation will be equipped with a disposable, removable, and moistureproof body fluid cleanup kit in a disposable container that includes the following items:

(1) An EPA-registered liquid germicide (tuberculocidal) disinfectant;
(2) A fully disposable wiping cloth;
(3) A water-resistant spatula;
(4) Step-by-step directions;
(5) Absorbent material with odor counteractant;
(6) Two pairs of gloves;

(7) One package towelettes;

(8) A discard bag (unlabeled paper bag with a plastic liner and a twist tie). This bag is to be approximately 4 inches × 6 inches × 14 inches. The kit will be removable without the use of tools.

f. Each vehicle used for student transportation will be equipped with a durable webbing cutter having a full-width handgrip and a protected, replaceable or noncorrodible blade. One or more of these devices will be mounted in an easily detachable manner and in a location accessible to the seated driver.

g. Axes are not allowed.

44.3(19) *Exhaust system.*

a. The exhaust pipe, muffler and tailpipe will be outside the bus body compartment and attached to the chassis so as not to damage any other chassis component.

b. The tailpipe will be constructed of a corrosion-resistant tubing material at least equal in strength and durability to 16-gauge steel tubing.

c. The tailpipe may be flush with, or will not extend more than 2 inches beyond, the perimeter of the body for side-exit pipe or the bumper for rear-exit pipe. The exhaust system will be designed such that exhaust gas will not be trapped under the body of the bus.

d. The tailpipe will exit to the left or right of the emergency exit door in the rear of the vehicle or to the left side of the bus in front of or behind the rear drive axle or the tailpipe may extend through the bumper. The tailpipe exit location on all Type A-1 or B-1 buses may be in accordance with the manufacturer's standards. The tailpipe will not exit beneath any fuel filler location, emergency door or lift door.

e. The exhaust system on a chassis will be adequately insulated from the fuel system.

f. The muffler is to be constructed of corrosion-resistant material.

g. The exhaust system on vehicles equipped with a power lift unit may be routed to the left of the right frame rail to allow for the installation of a power lift unit on the right side of the vehicle.

h. The design of the aftertreatment systems is not to allow active (non-manual) regeneration of the particulate filter during the loading and unloading of passengers. Manual regeneration systems will be designed such that unintentional operation will not occur.

i. For aftertreatment systems that require diesel exhaust fluid (DEF) to meet federally mandated emissions:

(1) The composition of diesel exhaust fluid (DEF) complies with International Standard ISO 22241-1. Refer to engine manufacturer for any additional DEF requirements.

(2) The DEF supply tank is sized to meet a minimum ratio of 3 diesel fills to 1 DEF fill.

44.3(20) *Fenders, front and hood.* This subrule does not apply to Type A or D vehicles.

a. The total spread of outer edges of front fenders, measured at the fender line, is to exceed the total spread of front tires when the front wheels are in the straight-ahead position.

b. Front fenders will be properly braced and not require attachment to any part of the body.

c. Chassis sheet metal will not extend beyond the rear face of the cowl.

d. Front fenders and hood may be of manufacturer's standard material and construction.

e. The hood will not require more than 20 pounds of force to open and include design features to secure the hood in an open position.

44.3(21) *Fire suppression system.* An automatic fire suppression system may be installed. Fire suppression system nozzles will be located in the engine compartment, under the bus, in the electrical panel or under the dash, but they are not to be located in the passenger compartment. The system is to include a lamp or buzzer to alert the driver that the system has been activated.

44.3(22) *Floor insulation and covering.*

a. The floor structure of Type A, B, C and D school buses will be covered with an insulating layer of either a 5-ply minimum ⅝-inch-thick plywood, or a material of equal or greater strength and insulation R-value, having properties equal to or exceeding exterior-type softwood plywood, C-D grade as specified in standards issued by the United States Department of Commerce. All edges will be sealed.

b. Type A buses may be equipped with a minimum ½-inch-thick plywood meeting the above requirements.

c. The floor in the under-seat area of Type B, C, and D buses, including tops of wheelhousings, driver's compartment and toeboard, will be covered with an elastomer floor covering having a minimum overall thickness of .125 inch and a calculated burn rate of 0.1 mm per minute or less using the test methods, procedures and formulas listed in FMVSS No. 302. The floor covering of the driver's area and toeboard area on all Type A buses may be the manufacturer's standard flooring and floor covering.

d. The floor covering in the aisles will be of a ribbed or other raised-pattern elastomer and have a calculated burn rate of 0.1 mm per minute or less using the test methods, procedures and formulas listed in FMVSS No. 302. Minimum overall thickness is .187 inch measured from tops of ribs.

e. Floor covering are to be permanently bonded to the floor and must not crack when subjected to sudden changes in temperature. Bonding or adhesive material is to be waterproof and of a type recommended by the manufacturer of the floor-covering material. All seams are to be sealed with waterproof sealer. One-piece floor covering is allowed.

f. On Type B, C and D buses, access to the fuel tank sending unit will be provided. The access opening will be large enough and positioned to allow easy removal of the sending unit. Any access opening in the body is capable of being sealed with a screw-down plate from within the body. When in place, the screw-down plate will seal out dust, moisture and exhaust fumes. This plate will not be installed under flooring material.

g. Cove molding or watertight sealant will be used along the sidewalls and rear corners. All joints or seams in the floor covering will be covered with nonferrous metal stripping or stripping constructed of material exhibiting equal durability and sealing qualities.

44.3(23) *Frame.*

a. The steel frame will have design and strength characteristics corresponding at least to standard practice for trucks of the same general load characteristics that are used for highway service.

b. Any secondary manufacturer that modifies the original chassis frame will guarantee the performance of workmanship and materials resulting from such modification.

c. Extensions of frame lengths are permissible only when alterations are behind the rear hanger of the rear spring or in front of the front hanger of front spring and will not be for the purpose of extending the wheelbase.

d. Holes in top or bottom flanges or side units of the frame and welding to the frame will not be permitted except as provided or accepted by the chassis manufacturer.

e. Frame lengths are to be established in accordance with the design criteria for the complete vehicle.

44.3(24) *Fuel system.*

a. The fuel system will comply with FMVSS No. 301, Fuel System Integrity. On Type A-1 and A-2 vehicles, the fuel tank may be of the manufacturer's standard construction.

b. On chassis with a wheelbase greater than 170 inches, at least one fuel tank of 60-gallon capacity will be provided and installed by the manufacturer. Chassis with a wheelbase of 170 inches or less will be equipped with at least one fuel tank of 25-gallon minimum capacity, as provided and installed by the manufacturer.

c. The fuel tank(s) may be mounted between the chassis frame rails or outboard of the frame rails on either the left or right side of the vehicle by the manufacturer. Tanks are to be mounted directly to the chassis frame, filled, and vented outside the body, in a location where accidental fuel spillage will not drip or drain on any part of the exhaust system.

d. Fuel filtration is to be accomplished by means of the following:

(1) Gasoline-powered systems—one in-line fuel filter is to be installed between the fuel tank and the engine.

(2) Diesel-powered systems—one mounted fuel filter with water/fuel separator is to be supplied and installed by the engine manufacturer.

44.3(25) *Fuel system, alternative fuels.* An alternative fuel is defined as liquefied petroleum gas (LPG), compressed natural gas (CNG), liquefied natural gas (LNG), electricity, hydrogen, methanol, ethanol, clean diesel, biodiesel, reformulated gasoline, or any type of hybrid system. Vehicles that operate on an alternative fuel are to meet the following provisions:

a. Chassis will meet all standards of this rule.

b. Chassis will meet all applicable FMVSS standards including the fuel system integrity standards of FMVSS No. 301 or FMVSS No. 303 and FMVSS No. 304.

c. OEMs and conversion systems using CNG or LPG will comply with NFPA standards in effect at the time of manufacture (Standard 52, "Compressed Natural Gas Vehicular Fuel Systems," and Standard 58, "Liquefied Petroleum Gases Engine Fuel Systems").

d. LNG-powered buses will comply with NFPA Standard 57, "Liquefied Natural Gas Vehicular-Fueled Systems," and be equipped with an interior/exterior gas detection system. All natural gas-powered buses will be equipped with a fire detection and suppression system.

e. All materials and assemblies used to transfer or store alternative fuels are to be installed outside the passenger/driver compartment.

f. The total weight will not exceed the GVWR when loaded to rated capacity.

g. The manufacturer supplying the alternative fuel equipment are to provide the owner and operator with adequate training in fueling procedures, scheduled maintenance, troubleshooting, and repair of alternative fuel equipment. Overflow protection device (OPD) testing are to be done yearly by a tester trained in this procedure and whose training has been documented. Documentation of the annual OPD valve test will be a label or identification tag affixed to the step well of the bus, signed and dated by the test person with permanent marker. The label will indicate the expiration date of the successful test.

h. All on-board fuel supply containers will meet all appropriate provisions of the ASME code, the DOT regulations, or applicable FMVSS and NFPA standards.

i. All fuel supply containers will be securely mounted.

j. All safety devices that may discharge to the atmosphere will be vented to the outside of the vehicle. The discharge line from the safety relief valve on all school buses will be located in a manner appropriate to the characteristics of the alternative fuel. Discharge lines are not to pass through the passenger compartment and are to be kept clear with flapper-valve or other device that will allow low-pressure discharge but prevent clogging by foreign matter or insects.

k. A positive, quick-acting (¼ turn), shut-off control valve will be installed in the gaseous fuel supply lines as close to the fuel supply containers as possible. The controls for this valve are to be placed in a location easily operable from the exterior of the vehicle. The location of the valve control will be clearly marked on the exterior surface of the bus.

l. A grounding system is required for grounding of the fuel system during maintenance-related venting.

m. Storage batteries for hybrid power systems will be protected from crash impacts; encased in a nonconductive, acid-resistant compartment; and well-ventilated to preclude the possibility of hydrogen gas buildup.

n. Additional specific specifications for electric vehicles.

(1) All electric school bus systems will be in full compliance with all applicable FMVSS and all Society of Automotive Engineers (SAE) standards that are applicable at time of manufacture.

(2) Batteries of high voltage will meet manufacturer's specifications and comply with the following provisions:

1. The propulsion power source (batteries, fuel cells, etc.) will be located outside the passenger compartment and not be accessible from the interior of the school bus. The power source will be located in between or under chassis frame rails protected by a steel cage. Extended range power sources, if located outside the frame rails, will be protected by a steel cage.

2. High voltage batteries will have a main service disconnect device that does not allow high voltage outside the battery system. This disconnect device will not be in or accessible from the passenger area. Any disconnect device will be clearly marked on the bus body adjacent to each cutoff switch and easily recognized in the event of a crash.

3. High voltage batteries will be designed to prevent the passenger compartment from becoming energized.

4. All batteries will be designed to prevent any dangerous fluids or fumes from entering the passenger area.

5. All high voltage access areas, including the charging port, will be equipped with a lock or otherwise secured to prevent unauthorized access.

(3) Batteries of low voltage will have a low voltage battery shutoff switch installed in the vicinity of the low voltage battery compartment in an area not easily accessible to the driver or passengers. The location of the low voltage battery shutoff switch will be clearly labeled on the exterior of the vehicle.

(4) The charging system will comply with the following provisions:

1. The charging connection point will be outside the passenger compartment.

2. While charging, the transmission/propulsion system will be rendered inoperative.

3. The charging port will be located behind a door or an access panel in accordance with manufacturer standards, with the door or access panel clearly labeled with the location of the charging port. The port will include a status light to indicate the charging status of the battery.

(5) A DC-DC converter will be provided and deliver a minimum of 200 amps at 12VDC. The converter system will incorporate a ground fault interrupt (GFI) that disconnects/isolates the high voltage batteries in the event of a shorted circuit or water intrusion.

(6) Heaters will be capable of heating the passenger and driver's compartments to a comfortable temperature.

(7) The ignition switch circuit will be linked to the battery management system and will prevent the driving of the vehicle while it is connected to an external battery charging source and designed so that when the ignition switch is off, the high voltage is positively disconnected.

(8) The instrument panel will monitor and display battery health. This displayed information will include:

1. High voltage battery state of charge and range in miles.

2. Electric motor temperature.

3. Battery discharge and regeneration rates.

4. Battery health (as applicable: temperature, battery cell balancing, etc.).

(9) Electric vehicles will comply with all identification per subrule 44.3(34). The bus will also display specific electric vehicle markings as provided below.

1. The outer layer of insulation or wiring conduit for drive system high-voltage wiring will be industry standard orange color or otherwise labeled as "HIGH VOLTAGE".

2. All high-voltage components will be labeled with a "HIGH VOLTAGE" marking/warning. Each door, cover, or other panel or enclosed compartment that affords immediate access to any high voltage area will be plainly marked with a hazard warning label that reads "WARNING—HIGH VOLTAGE" or "DANGER—HIGH VOLTAGE". This label will be located in a highly conspicuous place.

3. An electric vehicle identifying label of no less than 2 inches in height will be affixed on the right rear corner of the bus body, on the right side of the bus rearward of the entrance door, and to the left side of the bus aft of the driver's window.

4. Additional lettering/imagery may be located on both sides of the bus along the roof cap starting above the service door and ending no further back than the forward edge of the second passenger window, but none is to be placed on/in any window.

5. Electric vehicle image graphics may be used in combination with words.

(10) The operating range will be OEM design and capable of operating with a range of 100 miles or more.

(11) The propulsion/drivetrain system is exempted from all internal combustion engine specifications.

(12) All seats will be mounted to eliminate contact with batteries and underside of the bus if seat replacement or reconfiguration is necessary.

(13) All electric school buses will produce adequate sound for pedestrian alert while in motion below 20 miles per hour.

(14) Overall system protection will include:

1. Wire, cable, and conductor insulation in the high voltage system will provide adequate insulation for the voltage used and for ambient temperatures ranging from -15°F to 120°F.

2. All high voltage circuits will provide adequate and automatic protection against electrical overloads or malfunctions caused by short circuits, charging/discharging faults, battery overheating,

electrical overheating, degraded battery health, or other excessive current conditions through the use of fuses, circuit breakers, and ground fault interruption.

3. Prior to any type of automatic shutdown, a warning or maintenance indicator will display in the driver console to notify the driver of impending shutdown or the need for immediate maintenance and allow enough time to safely reposition and stop the bus via a gradual derating of propulsion prior to complete automatic shutdown.

44.3(26) *Fuel system, fuel fill opening and cover.* Where an opening in the school bus body skirt is needed for access to the fuel fill cap, the opening will be large enough to permit filling the fuel tank without the need for special fuel nozzle adapters, a funnel, or other device. The opening will be equipped with a forward hinged cover held closed by a spring or other conveniently operated device. The cover may be of a lockable design. Type A buses are exempt from the requirement of a cover.

44.3(27) *Governor.* An electronic engine speed limiter will be provided and set to limit engine speed, not to exceed the maximum revolutions per minute as recommended by the engine manufacturer.

44.3(28) *Handrails.* At least one handrail is to be installed. The handrail will be a minimum of 1 inch in diameter and be constructed from corrosion-resistant material(s). The handrail(s) will be designed to assist passengers during entry or exit and to prevent entanglement, as evidenced by the passing of the National Highway Traffic Safety Administration (NHTSA) string and nut test.

44.3(29) *Heating and air conditioning.*

a. The heater will be hot-water combustion type, electric heating element, or heat pump.

b. If only one heater is used, it will be a fresh-air or combination fresh-air and recirculation type.

c. If more than one heater is used, additional heaters may be recirculating air type.

d. The heating system will be capable of maintaining bus interior temperatures as specified in SAE test procedure J2233.

e. Auxiliary fuel-fired heating systems are permitted, provided that they comply with the following:

(1) Heater(s) may be direct hot air or connected to the engine's coolant system.

(2) An auxiliary heating system, when connected to the engine's coolant system, may be used to preheat the engine coolant or preheat and add supplementary heat to the bus's heating system.

(3) Auxiliary heating systems must be installed pursuant to the manufacturer's recommendations and will not direct exhaust in a manner that will endanger bus passengers.

(4) Auxiliary heating systems that operate on diesel fuel are to be capable of operating on #1, #2 or blended diesel fuel without the need for system adjustment.

(5) The auxiliary heating system is to be low voltage.

(6) Auxiliary heating systems will comply with all applicable FMVSS including FMVSS No. 301 as well as SAE test procedures.

f. Heater hoses will be adequately supported to guard against excessive wear due to vibration. The hoses will not dangle or rub against the chassis or any sharp edges and not interfere with or restrict the operation of any engine function. Heater hoses will conform to SAE Standard J20c, "Coolant System Hoses." Heater lines, cores, and elements on the interior of the bus are to be shielded to prevent scalding or burning of the driver or passengers.

g. Each hot water system installed by a body manufacturer will include one shut-off valve in the pressure line and one shut-off valve in the return line with both valves at the engine in an accessible location, except that on all Type A and B buses, the valves may be installed in another accessible location.

h. Each hot water heating system will be equipped with a device that is installed in the hot water pressure line that regulates the water flow to all heaters and that is located for convenient operation by the driver while seated.

i. All combustion heaters will comply with current Federal Motor Carrier Safety Regulations.

j. Accessible bleeder valves will be installed in an appropriate place in the return lines of body manufacturer-installed heaters to remove air from the heater lines.

k. Access panels will be provided to make heater motors, cores, elements, and fans readily accessible for service. An outside access panel may be provided for the driver's heater.

l. Air-conditioning systems may be installed in accordance with the following:

(1) Evaporator cases, lines and ducting (as equipped) will be designed so that all condensation is effectively drained to the exterior of the bus below floor level under all conditions of vehicle movement without leakage on any interior portion of the bus.

(2) Any evaporator or ducting system will be designed and installed so as to be free of injury-producing projections or sharp edges. Installation will not reduce compliance with any FMVSS applicable to the school bus. Ductwork will be installed so that exposed edges face the front of the bus and do not present sharp edges.

(3) Any evaporators used are to be copper-cored (aluminum or copper fins acceptable), except that the front evaporator, if provided by a Type A chassis manufacturer, may be aluminum-cored.

(4) Air intake for any evaporator assembly(ies) except for the front evaporator of a Type A bus will be equipped with replaceable air filter(s) accessible without disassembly of the evaporator case.

(5) On buses equipped for the transportation of persons with disabilities, the evaporator and ducting will be placed high enough so that they will not obstruct existing or potential occupant securement shoulder strap upper attachment points. This clearance will be provided along the entire length of the passenger area on both sides of the bus interior to allow for potential retrofitting of new wheelchair positions and occupant securement devices throughout the bus.

(6) The total air-conditioning system will be warranted, including parts and labor, for at least two years and include compressor-mounting bracketry and hardware and any belts that, directly or indirectly, drive the compressor(s). Air-conditioning compressor applications are to be approved in writing by the chassis engine manufacturer, stating that the installations will not void or reduce the engine manufacturer's warranty or extended service coverage liabilities in any way.

(7) All components requiring periodic servicing are to be readily accessible for servicing.

(8) Parts and service manuals are to be provided for the entire system including compressor(s), wiring (includes wiring diagram), evaporators, condensers, controls, hoses and lines.

(9) Electrical requirements for the air-conditioning system will be provided to the customer prior to vehicle purchase or, in the case of an after-purchase installation, prior to installing the air-conditioning system to ensure that adequate electrical demands imposed by the air-conditioning system are capable of being met.

(10) The installed air-conditioning system should cool the interior of the bus down to at least 80 degrees Fahrenheit, measured at a minimum of three points, located 4 feet above the floor at the longitudinal centerline of the bus. The three points are near the driver's location; at the midpoint of the body; and 2 feet forward of the emergency door, or for Type D rear engine buses, 2 feet forward of the end of the aisle. Test conditions will be those as outlined in the National School Transportation Specifications and Procedures Manual 2015.

44.3(30) *Heating system, provisions for.*

a. The engine is to be capable of supplying coolant per SBMTC-001, Standard Code for Testing and Rating Automotive Bus Hot Water Heating and Ventilating Equipment, of the School Bus.

b. For Type A vehicles with GVWR of 10,000 pounds or less, the chassis manufacturer will provide a fresh-air front heater and defroster of recirculating hot water type. See also subrules 44.3(13) and 44.3(29).

44.3(31) *Headlamps.*

a. The headlamp switch will be of adequate ampere capacity to carry the load of the clearance and identification lamps in addition to the headlamps and tail lamps since these will be activated by the same switch.

b. There will be a manually operated switch for selection of high- or low-beam distribution of the headlamps.

c. The headlight system will be wired separately from the body-controlled solenoid.

d. A daytime running lamp (DRL) system will be provided.

44.3(32) *Hinges.* All exposed metal passenger-door hinges subject to corrosion will be designed to allow lubrication without disassembly. All passenger-door hinges will be securely bolted to the bus body. Metal screws are not acceptable.

44.3(33) *Horn.* The bus is to be equipped with a horn(s) of standard make and tested in accordance with SAE J377, Horn—Forward Warning—Electric—Performance, Test, and Application.

44.3(34) *Identification.*

a. The body will bear the words "SCHOOL BUS" in black letters at least 8 inches high on both front and rear of the body or on attached signs. The lettering is to be placed as high as possible without impairment of its visibility. The lettering will conform to Series B of Standard Alphabets of Highway Signs. "SCHOOL BUS" lettering will have a reflective background or, as an option, may be illuminated by backlighting.

b. The bus, whether school-owned or contractor-owned, will have displayed at the beltline on each side of the vehicle the official public school district or nonpublic school name in black standard unshaded letters at least 5 inches high, but not more than 7 inches high.

Examples:

(1) Blank community school district.

(2) Blank independent school district.

(3) Blank consolidated school district.

If there is insufficient space due to the length of the name of the school district, the words "community," "independent," "consolidated," and "district" may be abbreviated. If, after these abbreviations, there is still insufficient space available, the words "community school district" may be replaced by the uppercase letters "CSD".

c. Buses privately owned and operated by an individual or individuals and used exclusively for transportation of students will bear the name of the owner, at the beltline on each side of the vehicle in black standard unshaded letters at least 5 inches high, but not more than 7 inches high.

d. The words "RATED CAPACITY," along with the appropriate number indicating the rated pupil seating capacity of the bus, are to be printed to the left of the entrance door, at least 6 inches below the name of the school district and on the bulkhead of the bus above the right windshield. The letters will be black in color and at least 2 inches in height. The word "CAPACITY" may be abbreviated and shown as "CAP." where necessary.

e. The number of the bus will be printed in not less than 5-inch nor more than 8-inch black letters, except as otherwise noted in this subrule, and displayed on both sides, the front and the rear of the bus. The location of the bus number is at the discretion of the vehicle owner except that the number:

(1) Will be located to the rear of the service door not more than 36 inches from the ground on the right side of the bus and at the same respective position on the left side of the bus.

(2) Will be yellow if located on either the front or rear bumper.

(3) May be placed on the roof of the bus at a position representing the approximate lateral and longitudinal midpoint of the bus. The bus number will be black and measure not less than 24 inches in length.

(4) Will not be located on the same line as the name of the school district on either side of the bus, on the emergency door, or in a location that will interfere with the words "SCHOOL BUS."

f. Buses privately owned by individuals, a company, or a contractor will also bear the name of the owner, followed by the word "OWNER" in not more than 2-inch characters printed approximately 6 inches below the bus capacity on the right side of the bus.

g. Symbols, characters or letters, for the purpose of vehicle or route identification by students, may be displayed below the belt line or in the lower, split-sash, glass portion of the third passenger window from the front on the service entrance side of the bus. Such symbols, characters or lettering, if used, will not exceed 36 square inches. This provision applies to all school buses regardless of date of purchase.

h. Symbols identifying the bus as equipped for or transporting students with special needs will be displayed. See subrule 44.4(2).

i. The words "UNLAWFUL TO PASS WHEN LIGHTS FLASH" is to be displayed on the rear emergency door of the bus between the upper and lower window glass sections. The letters are to be black and not less than 2 inches nor more than 6 inches in height. If there is not sufficient space on the emergency door, letter size may be reduced upon approval of the department of education.

j. The word "BATTERY" in 2-inch black letters will be placed on the door covering the battery opening.

k. Pressure-sensitive markings of vinyl material may be used for the lettering mentioned in this subrule in lieu of painting.

l. Any lettering, including the name of the school's athletic team(s), numbers, drawings, bumper stickers, characters, holiday decorations, or mascot symbols other than the bus manufacturer's registered trademarks or those specifically noted in paragraphs 44.3(35)*"a"* through *"k"* above are prohibited.

m. Fuel type will be clearly displayed in 2-inch letters either on the fuel door or directly above the fuel door. Examples:

Gasoline or Gasoline Only

Diesel or Diesel Fuel or Diesel Only

Propane or Propane Only

Diesel Exhaust Fluid (DEF)

n. A "No Trespassing" sign may be affixed to the face of the top step in 2-inch black letters on a white background.

44.3(35) *Instruments and instrument panel.*

a. Chassis will be equipped with an instrument panel having, as a minimum, the following instrumentation: (Lights in lieu of gauges are not acceptable except as noted.)

(1) Speedometer.

(2) Odometer with accrued mileage including tenths of miles unless tenths of miles are registered on a trip odometer.

(3) Voltmeter with graduated scale.

(4) Oil pressure gauge.

(5) Water temperature gauge.

(6) Fuel gauge.

(7) High-beam headlamp indicator.

(8) Air pressure gauge, where air brakes are used. A light indicator in lieu of a gauge is permitted on vehicles equipped with hydraulic-over-hydraulic brake system.

(9) Turn signal indicator.

(10) Glow-plug indicator light, where appropriate.

(11) Tachometer required on vehicles 14,500 pounds GVWR and greater.

b. Gauges will be displayed as single-gauge installations or as gauges contained in a multifunction instrument display. The multifunction instrument display will comply, as a minimum, with the following design criteria:

(1) The driver must be able to manually select any displayable function of the gauge on a multifunction display whenever desired.

(2) Whenever an out-of-limits condition occurs, which would be displayed on one or more functions of a multifunction gauge, the multifunction gauge controller should automatically display this condition on the instrument cluster. This should be in the form of an illuminated warning light as well as having the multifunction gauge automatically display the out-of-limits indications. Should two or more functions displayed on the multifunction gauge go out of limits simultaneously, the multifunction gauge should automatically sequence between those functions continuously until the condition(s) is corrected.

(3) The use of a multifunction instrument display does not relieve the requirement of audible warning devices pursuant to this subrule.

c. All instruments will be easily accessible for maintenance and repair.

d. Instruments and gauges will be mounted on the instrument panel so each is clearly visible to the driver in a normal seated position.

e. The instrument panel will have rheostatically controlled lamps of sufficient candlepower to illuminate all instruments, gauges, and the shift selector indicator for automatic transmission.

44.3(36) *Insulation.*

a. Thermal insulation in the ceiling and walls will be fire-resistant, UL-approved, and approximately 1½-inch thick with a minimum R-value of 5.5. Insulation will be installed in such a way as to prevent it from sagging.

b. Roof bows will be insulated in accordance with paragraph 44.3(36)*"a."*

44.3(37) *Interior.*

a. The interior of the bus is to be free of all unnecessary projections, including luggage racks and attendant handrails, to minimize the potential for injury. This standard requires inner lining on ceilings and walls. If the ceiling is constructed to contain lapped joints, the forward panel will be lapped by the rear panel and exposed edges will be beaded, hemmed, flanged, or otherwise treated to minimize sharp edges. Buses may be equipped with a storage compartment for tools, tire chains, and tow chains. See also subrule 44.3(61).

b. Radio speakers are permitted in the passenger compartment area only. No radio speaker, other than that which is necessary for use with two-way communication equipment, will be located within the driver's compartment area. All radio speakers will be flush-mounted with the roof or side panels and free of sharp edges.

c. The driver's area forward of the foremost padded barriers will permit the mounting of required safety equipment and vehicle operation equipment.

d. Every school bus will be constructed so that the noise level taken at the ear of the occupant nearest to the primary vehicle noise source does not exceed 85 dBA when tested according to the procedure found in Appendix B, National School Transportation Specifications and Procedures Manual 2015.

e. An access panel will be provided, front and rear, so lights and wiring for the 8-light warning system may be repaired or serviced without removing ceiling panels.

f. Ceiling material designed to reduce noise within the driver compartment or passenger compartment may be installed by the manufacturer.

g. An electronic "child check" monitor will be installed. This monitor will operate in such a way as to require the driver to physically walk to the back of the bus to disengage the monitor system after having first shut off the engine of the bus.

h. Mobile Wi-Fi Internet and USB ports are allowed, in accordance with other provisions of subrule 44.3(37).

i. On-board interior bus camera heads are allowed within the passenger area of the bus. Camera heads are not to extend more than 1½ inches from the ceiling and are to have rounded edges as much as possible. Camera heads will not be mounted directly above the aisle. Exterior cameras are allowed.

j. Electronic student detection systems are allowed on both the interior and exterior of the bus. Interior systems will detect students left behind after the bus is shut off. Exterior systems will detect students in the danger zones.

44.3(38) *Lamps and signals.*

a. All lamps and lamp components will meet or exceed applicable standards established by the Society of Automotive Engineers (SAE), the American Association of Motor Vehicle Administrators (AAMVA), and FMVSS. These lamps will be of incandescent or LED design.

b. Clearance lamps. The body will be equipped with two amber clearance lamps at the front and two red clearance lamps at the rear mounted at the highest and widest portion of the body.

c. Identification lamps. The bus will be equipped with three amber identification lamps on the front and three red identification lamps on the rear. Each group will be evenly spaced not less than 6 or more than 12 inches apart along a horizontal line near the top of the vehicle.

d. Intermediate side marker lamps. On all buses over 30 feet long, one amber side lamp is necessary on each side, located midway between the front and rear clearance lamps.

e. Stop/tail (brake) lamps. Buses will be equipped with four combination, red stop/tail lamps meeting SAE specifications. Each lamp will have double filament lamp bulbs or LEDs that are connected to the headlamp and brake-operated stop lamp circuits. These should be positioned as follows:

(1) Two combination lamps with a minimum diameter of 7 inches or, if a shape other than round, a minimum of 38 square inches of illuminated area will be mounted on the rear of the bus just to the inside of the turn signal lamps.

(2) Two combination lamps with a minimum diameter of 4 inches or, if a shape other than round, a minimum of 12 square inches of illuminated area will be mounted on the rear of the body between the beltline and the floor line. The rear license plate lamp may be combined with one lower tail lamp. Stop lamps will be activated by the service brakes and emit a steady light when illuminated. Type A-2 buses with bodies supplied by the chassis manufacturer may have the manufacturer's standard stop and tail lamps.

f. Items described in paragraphs 44.3(38)*"b," "c," "d,"* and *"e"* will be connected to the headlamp switch.

g. Backup lamps. The bus body will be equipped with two white rear backup lamps. All vehicles will be equipped with lamps at least 4 inches in diameter or, if a shape other than round, a minimum of 13 square inches of illuminated area. All lamps will have a white or clear lens and meet SAE specifications. If backup lamps are placed on the same line as the brake lamps and turn signal lamps, they will be to the inside. Exterior perimeter lighting behind rear axle, activated by reverse switch, is allowed.

h. Interior lamps. Interior lamps will be provided that adequately illuminate the interior aisle and the step well. Step well lights and exterior boarding lights are required and will be illuminated by a service door-operated switch, to illuminate only when headlights and clearance lights are on and the service door is open. In addition, the following interior lamps will be provided:

(1) Supervisor's light. The rearmost ceiling light or a separate light may be used as a supervisor's light and will be activated by a separate switch controlled by the driver.

(2) Driver's area dome light. This light will have a separate switch controlled by the driver and illuminate the driver's compartment area.

(3) Body instrument panel lights will be controlled by a rheostat switch.

(4) On buses equipped with a monitor for the front and rear lamps of the school bus, the monitor will be mounted in full view of the driver. If the full circuit current passes through the monitor, each circuit will be protected by a fuse or circuit breaker against any short circuit or intermittent shorts.

i. License plate lamp. The bus will be equipped with a rear license plate illuminator. This lamp may be combined with one of the tail lamps.

j. Reflectors. Reflectors will be securely attached to the body with sheet metal screws or another method having equivalent securement properties and installed in accordance with the requirements of FMVSS No. 108; however, the vehicle will, as a minimum, be equipped with the following:

(1) Two amber reflectors, one on each side at the lower front and corner of the body approximately at floor level and back of the door on the right side, and at a similar location on the left side. For all buses over 30 feet long, an additional amber reflector is necessary on each side at or near the midpoint between the front and rear side reflectors.

(2) Four red reflectors, one at each side at or near the rear and two on the rear, one at each side.

(3) Reflectors are to be mounted at a height not more than 42 inches or less than 30 inches above the ground on which the vehicle stands.

k. Warning signal lamps.

(1) Buses will be equipped with two red lamps at the rear of the vehicle and two red lamps at the front of the vehicle.

(2) In addition to the four red lamps described above, four amber lamps will be installed so that one amber lamp is located near each red signal lamp, at the same level, but closer to the vertical centerline of the bus. The system of red and amber signal lamps will be wired so that amber lamps are energized manually and the red lamps are automatically energized (sequential), with amber lamps being automatically de-energized, when the stop signal arm is extended or when the bus service door is opened. An amber pilot light and a red pilot light will be installed adjacent to the driver controls for the flashing signal lamp to indicate to the driver which lamp system is activated.

(3) The area immediately around the lens of each alternately flashing signal lamp is to be black. In installations where there is no flat vertical portion of body immediately surrounding the entire lens of the lamp, there will be a circular or square band of black immediately below and to both sides of the lens, on the body or roof area against which the signal lamp is seen from a distance of 500 feet along the axis of the vehicle. Black visors or hoods, with a minimum depth of 4 inches, may be provided.

(4) Red lamps will flash at any time the stop signal arm is extended.

(5) All flashers for alternately flashing red and amber signal lamps will be enclosed in the body in a readily accessible location.

(6) Strobe lights are permissible.

(7) Additional electronic/lighted warning devices mounted on the rear of the bus are allowed. Each design will be evaluated and approved by Iowa department of education personnel per established criteria.

(8) Supplemental warning lights may be installed by the vehicle owner. The supplemental warning lights may be mounted to the front and rear of all Type A, B, C and D school buses and will meet the following provisions:

1. Will be wired into the existing 8-way warning light system, operate only with the existing red lights of that system, and use the same flash pattern.

2. Will be a four-light system (two front, two rear) and will not be mounted directly to either the front or rear bumper.

- Front lights will be located between the outer edge of the grill opening and the outer edge of the headlight(s), and sit horizontally rather than vertically. The lens of the light will be approximately perpendicular to the ground and to the outside edge of the bus body.
- Rear lights will be located 1 inch to 3 inches above the bumper, with a maximum of 4 inches above the bumper; will be located at least 1 inch inboard from the outside edge of the bus, but left and right of the emergency door; and will sit horizontally rather than vertically. The lens of the light will be approximately perpendicular to the ground and to the outside edge of the bus body.

l. Turn signal lamps.

(1) The bus body will be equipped with amber rear turn signal lamps that meet SAE specifications and are at least 7 inches in diameter or, if a shape other than round, a minimum of 38 square inches of illuminated area. These signal lamps will be connected to the chassis hazard warning switch to cause simultaneous flashing of turning signal lamps when needed as a vehicular traffic hazard warning. Turn signal lamps are to be placed as far apart as practical, and their centerline will be approximately 8 inches below the rear window. Type A-2 conversion vehicle lamps will be at least 21 square inches in lens area and in the manufacturer's standard color.

(2) Buses will be equipped with amber side-mounted turn signal lights. The turn signal lamp on the left side will be mounted rearward of the stop signal arm, and the turn signal lamp on the right side will be mounted rearward of the service door.

m. A white flashing strobe light rated for outdoor use and weather-sealed will be installed on the roof of the bus not less than 1 foot or more than 18 inches from the rear center of the bus. The strobe light will be located to the rear of the rearmost emergency roof hatch to prevent the roof hatch from diminishing the effectiveness of the strobe light. In addition:

(1) The strobe light will have a single clear lens emitting light 360 degrees around its vertical axis and will not extend above the roof more than the maximum legal height pursuant to Iowa Code section 321.456.

(2) The strobe light will be controlled by a separate switch with an indicator light that when lit will indicate that the strobe light is turned on.

(3) The light will be used in fog, rain, snow, or at times when visibility is restricted. The light may also be used as determined to be appropriate.

(4) Each model strobe light will meet the provisions of SAE J845 Class 1.

n. Pedestrian safety crossing lights are allowed and will activate automatically in conjunction with the stepwell and boarding lights.

44.3(39) *Measurements.*

a. Interior body height will be 72 inches or more, measured metal to metal, at any point on the longitudinal centerline from the front vertical bow to the rear vertical bow. Inside body height of Type A-2 buses will be 62 inches or more.

b. Overall height, length and width of the bus will not exceed the maximums allowed by the department of transportation.

44.3(40) *Metal treatment.*

a. All metal, except high-grade stainless steel or aluminum, used in construction of the bus body will be zinc-coated or aluminum-coated to prevent corrosion. This provision applies to such items as structural members, inside and outside panels, door panels and floor sills. Excluded are such items as door handles, grab handles, interior decorative parts and other interior plated parts.

b. All metal parts that will be painted will be, in addition to above requirements, chemically cleaned, etched, zinc-phosphate coated and zinc-chromate or epoxy primed to improve paint adhesion.

c. In providing for these provisions, particular attention will be given lapped surfaces, welded connections of structural members, cut edges, punched or drilled hole areas in sheet metal, closed or box sections, unvented or undrained areas, and surfaces subjected to abrasion during vehicle operation.

d. As evidence that the above requirements have been met, samples of materials and sections used in construction of the bus body will be subjected to cyclic corrosion testing as outlined in SAE J1563.

44.3(41) *Mirrors.*

a. The interior mirror will be either clear view laminated glass or clear view glass bonded to a backing that retains the glass in the event of breakage. The mirror will have rounded corners and protected edges. All Type A buses will have a minimum of a 6-inch × 16-inch mirror; and Type B, C, and D buses will have a minimum of a 6-inch × 30-inch mirror.

b. Each school bus will be equipped with exterior mirrors meeting the requirements of FMVSS No. 111. Mirrors will be easily adjustable, but rigidly braced so as to reduce vibration.

c. All exterior mirrors will be heated.

d. Systems offering a design feature permitting the driver to remotely adjust rearview mirrors from the driver's compartment will be utilized.

e. The right-side rearview mirrors will be unobstructed by the unwiped section of the windshield.

f. Stainless steel mirror brackets are allowed.

g. An interior mirror utilizing a secondary screen linked to an exterior camera is allowed. However, the secondary screen must revert to a mirror status when the bus is moving forward.

44.3(42) *Mounting.*

a. The chassis frame will support the rear body cross member. Except where chassis components interfere, the bus body will be attached to the chassis frame at each main floor sill in such manner as to prevent shifting or separation of the body from the chassis under severe operating conditions.

b. Isolators will be placed at all contact points between the body and chassis frame and secured by a positive means to the chassis frame or body to prevent shifting, separation, or displacement of the isolators under severe operating conditions.

c. The body front will be attached and sealed to the chassis cowl to prevent entry of water, dust, and fumes through the joint between the chassis cowl and body.

d. The refurbishing or reconditioning of a body-on-chassis school bus is limited to the repair and replacement of school bus body or chassis components. The original body and chassis, as certified by the OEMs, will be retained as a unit upon completion of repairs. It is not permissible to exchange or interchange school bus bodies and chassis. The refurbisher or reconditioner will certify that the vehicle meets all state and federal construction standards in effect as of the date of manufacture and will provide suitable warranty on all work performed. See also subrule 44.6(1).

44.3(43) *Mud flaps.*

a. Mud flaps or guards are required and provided and installed by the body manufacturer or manufacturer's representative for both front and rear wheels.

b. Front mud flaps or guards will be of adequate size to protect body areas vulnerable to road debris from wheels and mounted so as to be free of wheel movement at all times.

c. Rear mud flaps or guards will be comparable in size to the width of the rear wheelhousing and reach within approximately 9 inches of the ground when the bus is empty. They will be mounted at a distance from the wheels to permit free access to spring hangers for lubrication and maintenance and to prevent their being damaged by tire chains or being pulled off while the vehicle is in reverse motion.

d. All mud flaps will be constructed of rubber or a rubber composite. Vinyl or plastic is not acceptable.

44.3(44) *Openings.* All openings in the floorboard or fire wall between the chassis and passenger compartment, such as for gearshift selector and parking brake lever, will be sealed.

44.3(45) *Passenger securement seating system.*

a. All vehicles will conform to all FMVSS at date of manufacture.

b. Unless otherwise provided by FMVSS, school bus seats may be equipped with passenger securement systems for passengers with disabilities in accordance with 281—Chapter 41 when the child's individual education program staffing team determines that special seating and positioning are necessary during transportation. When a child securement system is necessary, the seat, including seat frame, seat cushion, belt attachment points, belts and hardware, will comply with all applicable FMVSS at the time of manufacture.

c. Children transported in child safety seats will be secured to a school bus seat utilizing a seat belt-ready seat frame, according to the child safety seat manufacturer's instructions.

44.3(46) *Public address system.* A public address system permitting interior, exterior or both interior and exterior communication with passengers may be installed.

44.3(47) *Radio/communication system.* Each school bus will have a communication system to allow communication between the driver of the bus and the school's base of operations for school transportation. This system will be a two-way radio, cellular phone, or similar device as allowed by local and state policies regarding use of handheld communication equipment.

44.3(48) *Retroreflective material.*

a. Retroreflective material will be provided in accordance with the following:

(1) The rear of the bus body is marked with strips of reflective NSBY material to outline the perimeter of the back of the bus using material that conforms with the requirements of FMVSS No. 131. The perimeter marking of rear emergency exits per FMVSS No. 217 or the use of retroreflective "SCHOOL BUS" signs partially accomplish the objective of this provision. To complete the perimeter marking of the back of the bus, strips of retroreflective NSBY material, a minimum of 1 inch and a maximum of 2 inches in width, is applied horizontally above the rear windows and above the rear bumper, extending from the rear emergency exit perimeter marking outward to the left and right rear corners of the bus. Vertical strips are applied at the corners connecting these horizontal strips. Multifunction school activity buses (MFSABs) are exempt from these color requirements.

(2) "SCHOOL BUS" signs, if not of lighted design, are marked with reflective NSBY material comprising background for lettering of the front and rear "SCHOOL BUS" signs.

(3) Sides of the bus body are marked with reflective NSBY material at least 1¾ inches in width, extending the length of the bus body and located within 6 inches above or below the floor line or on the beltline.

b. Front and rear bumpers may be marked diagonally 45 degrees down to centerline of pavement with 2-inch +/- ¼ inch wide strips of noncontrasting reflective material. This material will appear black during daylight hours; however, it will be seen as a reflective material during periods of reduced light conditions when a direct light source strikes the material.

44.3(49) *Road speed control.* A road speed control device or a vehicle cruise control may be utilized.

44.3(50) *Rub rails.*

a. One rub rail located on each side of the bus at, or no more than 8 inches above, the seat level will extend from the rear side of the entrance door completely around the bus body (except for emergency door or any maintenance access door) to the point of curvature near the outside cowl on the left side.

b. One rub rail located at, or no more than 10 inches above, the floor line will cover the same longitudinal area as the upper rub rail, except at wheelhousings, and will extend only to radii of the right and left rear corners.

c. Rub rails at or above the floor line will be attached at each body post and all other upright structural members.

d. Each rub rail will be 4 inches or more in width in its finished form, be of 16-gauge steel or suitable material of equivalent strength, and be constructed in corrugated or ribbed fashion.

e. Rub rails will be applied to outside body or outside body posts. Pressed-in or snap-on rub rails do not satisfy this provision. For all buses using a rear luggage or rear engine compartment, rub rails need not extend around rear corners.

f. The bottom edge of the body side skirts will be stiffened by application of a rub rail, or the edge may be stiffened by providing a flange or other stiffeners.

g. Rub rails will be painted black or be covered with black retroreflective material.

44.3(51) *Seating, crash barriers.*

a. All school buses (including Type A) will be equipped with restraining barriers that conform to FMVSS No. 222.

b. Crash barriers will be installed conforming to FMVSS No. 222; however, all Type A-2 school bus bodies will be equipped with padded crash barriers, one located immediately to the rear of the driver's seat and one at the service door entrance immediately to the rear of the step well.

c. Crash barriers will be constructed with materials that enable the crash barriers and passenger seats to meet the criteria contained in the School Bus Seat Upholstery Fire Block Test specified in the National School Transportation Specifications and Procedures Manual 2015. Fire block material, when used, will include the covering of seat bottoms.

d. All crash/restraining barriers will be the same height as the passenger seating height in the bus.

44.3(52) *Seating, driver.* Buses will be equipped with a Type 2 lap belt/shoulder harness seat belt assembly for the driver. This assembly may be integrated into the driver's seat. The seat belt assembly and anchorage will meet applicable FMVSS. The design will also meet the following additional provisions:

a. The lap portion of the belt will be anchored or guided at the seat frame by a metal loop or other such device attached to the right side of the seat to prevent the driver from sliding sideways out of the seat.

b. There will be a minimum of 7 inches of adjustment of the "D" loop of the driver's shoulder harness on a nonintegrated style of seat belt assembly.

c. The driver's seat belt assembly will incorporate high-visibility material. An audible alarm is also allowed.

44.3(53) *Seating, passenger.*

a. All seats, component parts, seat anchorage, cushion depth, seat back height, rump width, and seat-to-seat or seat-to-barrier measurements will comply with applicable federal requirements as of the date of manufacture, including FMVSS No. 217 and No. 222.

b. Seat-to-seat and seat-to-barrier measurements will be on a label permanently affixed to the bus.

c. Jump seats or portable seats are prohibited; however, use of a flip seat at any side emergency door location in conformance with FMVSS No. 222, including required aisle width to side door, is acceptable. Any flip seat will be free of sharp projections on the underside of the seat bottom. The underside of the flip-up seat bottoms will be padded or contoured to reduce the possibility of snagged clothing or injury during use. Flip seats will be constructed to prevent passenger limbs from becoming entrapped between the seat back and the seat cushion when in an upright position. The seat cushion will be designed to rise to a vertical position automatically when not occupied.

d. Passenger seats will be constructed with materials that enable them to meet the criteria contained in the School Bus Seat Upholstery Fire Block Test specified in the most current National School Transportation Specifications and Procedures Manual. Fire block material, when used, will include the covering of seat bottoms.

e. Seat cushions will contain a positive locking mechanism that requires removal of a security device before the seat may be unlatched.

f. For Type C and D buses, the distance between the rearmost portion of the seat backs of the rear row of seats and outside rear of the bus body (rear seat buffer zone), measured at the floor line, will be at least 8 inches. For Type A buses, the distance will be at least 6 inches.

44.3(54) *Seating, passenger restraints.*

a. Lap belts will not be installed on passenger seats in large school buses (over 10,000 pounds GVWR) except in conjunction with child safety restraint systems that comply with the provisions of FMVSS No. 213, Child Restraint Systems.

b. Three-point lap-shoulder belts will be installed in all new buses. The restraint system shall include a flexible design feature, thus allowing three-two seating on the same 39-inch seat, depending on student size.

44.3(55) *Shock absorbers.* Buses will be equipped with double-action shock absorbers compatible with manufacturer's rated axle capacity at each wheel location.

44.3(56) *Steering gear.*

a. The steering gear will be approved by the chassis manufacturer and designed to ensure safe and accurate performance when the vehicle is operated with maximum load and at maximum speed.

b. If external adjustments are necessary, the steering mechanism will be accessible.

c. No changes will be made in the steering apparatus, including the addition of spinners or knobs that are not approved by the chassis manufacturer.

d. There will be a clearance of at least 2 inches between the steering wheel and cowl, instrument panel, windshield, or any other surface.

e. Power steering is required and will be of the integral type with integral valves. Electric power-assisted steering systems are allowed.

f. The steering system will be designed to provide a means for lubrication of all wear points, if wear points are not permanently lubricated.

g. Tilting and telescopic steering wheels are acceptable.

44.3(57) *Steps.*

a. The first step at the service door will be not less than 10 inches and not more than 14 inches from the ground when measured from the top surface of the step to the ground, based on standard chassis specifications, except that on Type D vehicles, the first step at the service door will be 11 inches to 16 inches from the ground. A step well guard/skid plate will be installed by the manufacturer on all Type D vehicles.

b. Step risers will not exceed a height of 10 inches. When plywood is used on a steel floor or step, the riser height may be increased by the thickness of the plywood.

c. Steps will be enclosed to prevent accumulation of ice and snow. See subparagraph 44.4(2)*"g"*(1) for exception.

d. Steps will not protrude beyond the side body line.

44.3(58) *Step treads.*

a. All steps, including floor line platform area, will be covered with an elastomer floor covering having a minimum overall thickness of 3⁄16 inch.

b. The step covering will be permanently bonded to a durable backing material that is resistant to corrosion.

c. Step treads will have a l½-inch white or yellow nosing as an integral piece without any joint.

d. Step treads will have abrasion resistance, slip resistance, weathering resistance, and flame resistance as outlined in the National School Transportation Specifications and Procedures Manual 2015.

e. A 3-inch white or yellow rubber step edge at floor level, flush with the floor covering, will be provided.

f. Step treads will have a calculated burn rate of .01 mm per minute or less using the test methods, procedures and formulas listed in FMVSS No. 302, Flammability of Interior Materials.

g. A spray-on application type material that meets all other step tread requirements may be used in lieu of the floor covering described in paragraph 44.3(58)*"a."* The material will be applied not only to the interior surfaces of the service door step treads but also to the exterior if the exterior is not covered by undercoating.

44.3(59) *Stirrup steps.*

a. There will be at least one folding stirrup step or recessed foothold and suitably located handles on each side of the front of the body for easy accessibility for cleaning.

b. Steps or cutouts are permitted in the front bumper only, in lieu of the stirrup steps, if the windshield and lamps are easily accessible for cleaning from that position.

44.3(60) *Stop signal arm.*

a. The stop signal arm will be a flat 18-inch octagon exclusive of brackets for mounting. Stop arms or other warning devices will not extend more than 30 inches beyond the side of the bus body. All lamps and lamp components will comply with the requirements of FMVSS No. 131.

b. Both surfaces of the sign will be covered with reflectorized material having a reflective capability equal to or exceeding that of 3M Corporation high-intensity sheeting.

c. The application of the reflective sheeting material will be in accordance with the sheeting manufacturer's suggested application process. All copy will be sharply defined and clean cut.

d. The stop arm blade will be mounted in the area below the driver's window on the left side of the bus.

e. A second stop signal arm will be installed on the left side at or near the left rear corner of Type C and D school buses and meet the requirements of FMVSS No. 131.

f. Each stop arm blade will be automatically extended upon activation of the red warning signal lamp system and remain extended until the red signal lamps are deactivated. In addition, each stop arm blade will be equipped with two double-faced, 4-inch, alternately flashing red lights. The use of strobe lamps in the stop arm blade is acceptable.

g. A wind guard will be installed that prevents air currents from circulating behind the blades.

h. The stop arm will be vacuum-, electric-, or air-operated; and the system will positively hold the sign in extended or retracted position to prevent whipping in the wind.

i. If the air for an air-operated stop arm comes from the regular air brake system, the body manufacturer will provide the necessary check valve and pressure reduction valve to safeguard the air supply for brake application.

j. The two double-faced, 4-inch flashing lights may be replaced with an LED illuminated, high-visibility display, spelling out the word "STOP" visible to the front and rear. This lighting system will comply with applicable FMVSS prior to installation.

44.3(61) *Storage compartments.*

a. A storage container for tools, tire chains, and tow chains may be located either inside or outside the passenger compartment; but, if inside, it will have a cover (seat cushion may not serve this purpose) capable of being securely latched and fastened to the floor, convenient to either the service or emergency door.

b. Luggage compartments are allowed. Compartments will include a door and a means of holding the door in an open position when the compartment is being loaded or unloaded.

44.3(62) *Suspensions.* The capacity of springs or suspension assemblies will be commensurate with the chassis manufacturer's GVWR rating.

44.3(63) *Sun shield.*

a. For Type B, C, and D vehicles, an interior adjustable transparent sun shield not less than 6 inches × 30 inches with a finished edge will be installed in a position convenient for use by the driver. An interior adjustable transparent driver's side mounted sun shield of manufacturer's specification is allowed.

b. On all Type A buses, the sun shield will be the manufacturer's standard.

44.3(64) *Tires and rims.*

a. Tires and rims of the proper size and tires with a load rating commensurate with the chassis manufacturer's gross vehicle weight rating (GVWR) will be provided.

b. Tires will be of tubeless, steel-belted, radial (standard or low-profile) construction.

c. "Bud" type, hub-piloted steel rims are required. Multipiece and "Dayton" rims are prohibited. Manufactured non-ferrous spacers are required between steel and aluminum rims.

d. Dual tires will be provided on all vehicles listed in rule 281—44.2(285), except Type III and Type A1 vehicles.

e. All tires on a vehicle will be of the same size, and the load range of the tires will meet or exceed the GVWR as specified in FMVSS No. 120.

f. Spare tires are not necessary; however, if specified, the spare tire will be located outside the passenger compartment. The spare tire will not be attached to any part of the rear portion of the body including the emergency door, bumper or roof. If a tire carrier is necessary, it will be suitably mounted in an accessible location outside the passenger compartment.

g. Recapped tires are permissible as replacements on equipment now in operation for use on rear wheels only, providing tires are guaranteed by the seller. Recapped tires are not permissible where single rear wheels are used.

h. Tires, when measured on any two or more adjacent tread grooves, will have a tread groove pattern depth of at least 4/32 of an inch on the front wheels and 2/32 of an inch on the rear wheels. No measurement will be made where tire bars, humps, or fillets are located. On Type A-1 and Type A-2 buses, the tread groove pattern depth will be at least 4/32 of an inch. Where specific measurement points are provided by the tire manufacturer, they will be utilized in determining tires approved for service. This provision also applies to buses now in service.

i. Tire pressure equalizing systems for dual rear wheels are acceptable.

j. Wheel check indicators for lug nuts are allowed.

44.3(65) *Tow hooks, front.* Tow eyes or hooks are necessary on Type B, C and D buses of 14,501 pounds GVWR or greater. Two tow eyes or hooks will be installed by the manufacturer so as not to project beyond the front bumper.

44.3(66) *Tow hooks, rear.* Two rear tow hooks are necessary on all school buses. Rear tow hooks will be attached to the chassis frame and located under the rear bumper so the hook portion is under the body.

44.3(67) *Traction-assisting devices.* Traction-assisting devices including hopper-sanders, tire chains or automatic traction chains may be installed.

44.3(68) *Transmission.*

a. Automatic transmissions will provide for not less than three forward speeds and one reverse speed. The shift lever, if applicable, will provide a detent between each gear position when the gear selector quadrant and shift lever are not steering column-mounted.

b. Automatic transmissions will have a transmission shifter interlock controlled by the application of the service brake to prohibit accidental engagement of the transmission.

44.3(69) *Trash container and holding device.*

a. When a trash container is placed on the school bus, it will comply with the following:

(1) Meet the requirements of FMVSS No. 302, Flammability of Interior Materials.

(2) Be no greater than 20-quart capacity.

(3) Be secured by a holding device that is designed to prevent movement and to allow easy removal and replacement.

b. The container will be placed in an accessible location in the driver's compartment of the school bus subject to department of education approval. The container will not obstruct the aisle of the bus, access to safety equipment or passenger use of the service entrance door.

c. Trash containers meeting the requirements of paragraph 44.3(69)*"a"* are allowable behind the rear seat.

44.3(70) *Turning radius.*

a. A chassis with a wheelbase of 264 inches or less will have a right and left turning radius of not more than 42½ feet, curb-to-curb measurement.

b. A chassis with a wheelbase of 265 inches or more will have a right and left turning radius of not more than 44½ feet, curb-to-curb measurement.

44.3(71) *Undercoating.*

a. The entire underside of the bus body, including floor sections, cross member and below floor line side panels, and chassis front fenders will be coated with rustproofing material for which the material manufacturer has issued to the bus body manufacturer a notarized certification that materials meet or exceed all performance standards of SAE J1959, Sept. 2003 Edition.

b. Undercoating material will be applied with suitable airless or conventional spray equipment to the undercoating material manufacturer's recommended film thickness and show no evidence of voids in cured film.

c. The undercoating material will not cover any exhaust components of the chassis.

d. If chassis is built as a separate unit, the chassis manufacturer or its agents are responsible for providing undercoating to the chassis areas.

44.3(72) *Vandal lock.*

a. The school bus may be equipped with a vandal locking system for securing the service entrance, emergency, and wheelchair lift door(s).

b. The vandal locking system will include the following design features:

(1) The entrance door is to be locked by an exterior key with a dead bolt, a remote control (cable) device or an electric device. The system is to prevent the door from being accidentally locked by any motion the bus may encounter during its normal operation. This provision does not apply to Type A vehicles with a left-side driver's door.

(2) When the bus is equipped with a rear-mounted engine, the emergency door and rear emergency exit window are to be locked by an interior slide bolt that will activate a buzzer when the door or emergency exit window is locked and the ignition of the bus is turned on. The locking mechanism is to be capable of being locked or unlocked without the use of a separate key or other similar device.

(3) The engine starting system of the bus will not operate if the rear or side emergency door or rear emergency exit window over the rear engine compartment is locked from either the inside or outside of the bus.

(4) Hasp-type devices is not to be attached to the bus for the purpose of securing any door or window.

44.3(73) *Ventilation.*

a. The body ventilation system on Type A, B, C and D buses will include one or more combination roof ventilation/emergency escape hatches in accordance with subrule 44.3(14). The ventilation system will be capable of being controlled and have sufficient capacity to maintain a proper quantity of air under operating conditions without the opening of windows except in extremely warm weather.

b. Each combination roof ventilation/emergency escape hatch will be installed by the school bus body manufacturer or the body manufacturer's approved representative and will have the following design and installation features:

(1) Multiposition fresh air ventilation.

(2) Release handle(s) permitting operation as an emergency exit(s), accessible inside and outside the vehicle.

(3) An audible warning system that sounds an alarm in the driver's compartment area when the emergency roof hatch is unlatched will be installed as a design feature by the manufacturer.

(4) When more than one ventilation/emergency roof hatch is necessary, one will be installed forward of the intersection of the horizontal and longitudinal midpoints of the bus in a low-pressure area of the roof. The second unit will be installed on the roof in a location behind the rear axle. When only one ventilation/emergency roof hatch is necessary, it will be installed in a low-pressure area of the roof at or near the longitudinal midpoint of the bus.

(5) Ventilation/emergency escape hatches may include static-type nonclosable ventilation.

c. Auxiliary fans will be installed and meet the following provisions:

(1) Two adjustable fans will be installed on Type B, C and D buses. Fans for left and right sides will be placed in a location where they can be adjusted for maximum effectiveness and do not obstruct vision to any mirror.

(2) Fans will be a nominal 6-inch diameter except where noted below.

(3) Fan blades are to be covered with a protective cage. Each fan will be controlled by a separate switch capable of two-speed operation.

(4) Type A buses will have at least one fan that has a nominal diameter of at least 4 inches and meets the above requirements.

44.3(74) *Wheelhousings.*

a. The wheelhousing will be attached to the floor sheets in such a manner as to prevent any dust, water or fumes from entering the bus body. Wheelhousings will be constructed of at least 16-gauge steel or other material capable of withstanding passenger or other expected loads applied internally or externally without deformation.

b. The inside height of the wheelhousing above the floor line will not exceed 12 inches.

c. The wheelhousing will provide clearance for installation and use of tire chains on single and dual (if so equipped) power-driving wheels.

44.3(75) *Windshield and windows.*

a. All glass in windshield, windows, and doors will be of approved safety glass consistent with American National Standard, Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways, ANSI/SAE Z-26.1-1990, mounted so the permanent mark is visible, and of sufficient quality to prevent distortion of view in any direction.

b. Glass in windshields may be heat-absorbing and may contain a shaded band across the top. Location of "fade out" will be above the upper limit for maximum visibility.

c. Each full side window, other than emergency exits designated to comply with FMVSS No. 217, will be split-sash type and provide an unobstructed emergency opening of at least 9 inches high, but not more than 13 inches high, and 22 inches wide, obtained by lowering the window. When the driver's window consists of two sections, both sections will be capable of being moved or opened.

d. The school bus body manufacturer may design and install a protective device over the inside, lower window glass of a rear emergency door to protect it from being damaged or broken during normal operation. The protective device will be securely mounted by the manufacturer, be free of projections that might harm passengers, and permit visibility through the device to the area outside and to the rear of the bus.

e. Tinted glazing capable of reducing the amount of light passing through a window may be installed consistent with rules established by the department of public safety relating to automotive window transparency standards, except that the following windows shall be of AS-II clear glass rating:

(1) All glass to the immediate left of the driver.

(2) All glass forward of the driver and service door.

(3) All glass in the service entrance door.

44.3(76) *Windshield washer system.*

a. All buses will be equipped with electric wet-arm windshield washers that conform to the body manufacturer's recommendation as to type and size for the bus on which they are to be used. The windshield washer system on Type A and A-2 vehicles may be of the manufacturer's standard design.

b. The washer control(s) will be located within easy reach of the driver.

44.3(77) *Windshield wiper system.*

a. For Type A vehicles, windshield wipers will be supplied by the chassis manufacturer and be of the manufacturer's standard design.

b. Type B, C and D buses will be equipped with two positive-action, two-speed or variable-speed electric windshield wipers. Windshield wipers will have an intermittent wiping feature and be operated by a single switch.

c. The wipers will be operated by one or more electric motors of sufficient power to operate wipers. If one motor is used, the wipers will work in tandem to give a full sweep of the windshield.

d. Wiper control(s) will be located within easy reach of the driver and designed to move the blades from the driver's view when the wiper control is in the "off" position.

e. Windshield wipers will meet the requirements of FMVSS No. 104.

[**ARC 7794C**, IAB 4/17/24, effective 5/22/24]

281—44.4(285) Construction of vehicles for children with mobility disabilities. The following apply to vehicles constructed for the transportation of children with mobility disabilities of such severity that the children are unable to use the regular service door entrance. Vehicles constructed for transporting these children will meet all FMVSS relating to school bus construction and Iowa school bus construction requirements as described in rules 281—44.1(285) and 281—44.3(285). The following standards also apply:

44.4(1) *General provisions.*

a. Certification of these vehicles as multipurpose passenger vehicles due to capacity rating do not relieve the manufacturer of the responsibility to provide a completed vehicle meeting all FMVSS for school buses as well as rules 281—44.1(285) through 281—44.3(285) relating to the construction of a school bus.

b. Alteration of the interior of the vehicle is permissible if all seats and barriers, component parts, anchorages, wheelchair securement devices, and placement of seats and barriers and wheelchair securement devices comply with federal provisions as of date of manufacture. All equipment will be supplied by the original manufacturer and installed per the original manufacturer's specification. Alteration that would

return the vehicle to conventional passenger seating will include removal of all wheelchair securement devices, removal of the power lift, and rendering the special service door inoperable.

c. Any school bus that is used for the transportation of children who use a wheelchair or other restraining devices that prevent use of the regular service entrance will be equipped with a power lift located on the right side of the bus body located either forward of or behind the rear wheels on a Type A, B, C, or D bus.

d. The actual rated seating capacity following modification of a vehicle will be placed at locations indicated in paragraph 44.3(34)*"e."*

44.4(2) *Specific provisions.*

a. Aisle. Aisles leading from the wheelchair placements to the special service door and either the service door or one 30-inch wide emergency door will be a minimum of 30 inches in width.

(1) Aisles leading from wheelchair placements to all other doors will be at least 20 inches in width.

(2) A wheelchair securement position will not be located directly in front of a power lift door.

b. Barriers.

(1) Barriers will comply with and be installed as required by federal standards as of date of manufacture.

(2) A heavy-duty padded barrier or stanchion will be provided immediately to the rear of the step well opening extending from the side wall of the bus to approximately the aisle to prevent a person from accidentally falling into the step well opening from floor level. A barrier or stanchion as mentioned above will also be placed directly behind the driver.

(3) The power lift mechanism will be padded and protected to prevent a child from accidentally getting any part of the child's body caught in the power lift mechanism or special service door at any time.

(4) All crash/restraining barriers will be the same height as the passenger seating height in the bus.

c. Glazing. Tinted glazing may be installed in all doors, windows, and windshield.

d. Heaters. An additional heater(s) may be installed in the rear portion of the bus on or behind wheel wells.

e. Identification. Buses with wheelchair lifts used for transporting children with physical disabilities will display the International Symbol of Accessibility located on the front and rear of the vehicle below the window line. Emblems will be white on blue, shall not exceed 12 × 12 inches in size, and may be reflectorized.

f. Power lift.

(1) The power lift will meet all FMVSS and ADA requirements at the time of manufacture.

(2) The power lift may be located either forward of or behind the rear wheels of the vehicle on the right side of Type A, B, C and D buses.

(3) All lift controls will be portable and conveniently located on the inside of the bus near the special service door opening. Controls will be easily operable from inside or outside the bus. A master cut-off switch controlling on/off power to the lift will be located in the driver's compartment. There will be a means of preventing the lift platform from falling while in operation due to a power failure.

(4) Power lifts will be equipped so they may be manually raised or lowered in the event of power failure of the power lift mechanism.

(5) All edges of the platform will be designed to restrain a wheelchair and to prevent the operator's feet from being entangled during the raising and lowering process.

(6) A circuit breaker, fuse, or other electrical protection device will be installed between the power source and the lift motor if electrical power is used.

(7) When hydraulic pressure is used in the lifting process, the system will be equipped with adjustable limit switches or bypass valves to prevent excessive pressure from building in the hydraulic system when the platform reaches the full "up" position or full "down" position.

(8) All exposed parts of the power lift that are in direct line with the forward or rearward travel of a wheelchair student or attendant will be padded with energy-absorbing material.

(9) Power lifts are not allowed on vehicles with single rear wheels.

g. Ramps. Ramps are not permitted on Type A, B, C, and D buses.

h. Regular service entrance.

(1) An additional fold-out or slide-out step may be provided that will provide for the step level to be no more than 6 inches from the ground level to assist persons with disabilities that prohibit the use of the standard entrance step. This step, when stored and not in use, will not impede or in any way block the normal use of the entrance.

(2) On power lift-equipped vehicles, service entrance steps will be the full width of the step well, excluding the thickness of the doors in the open position.

(3) In addition to the standard handrail required in all buses, an additional handrail may be provided on all specially equipped school buses. If so equipped, this rail will be located on the opposite side of the entrance door from the required rail and will meet the same provisions for handrails.

i. Seating and seating arrangements.

(1) All seat spacing, seats, and related components will comply with applicable federal standards as of date of manufacture.

(2) All seats are to be forward facing. Side-facing seats are prohibited.

(3) Seat frames may be equipped by the school bus body manufacturer with rings or other devices to which passenger restraint systems may be attached.

j. Special light. Light(s) will be placed inside the bus to sufficiently illuminate the lift area and activated from the door area.

k. Special service opening.

(1) There will be an enclosed service opening located on the right side (curb side) of the body to accommodate a wheelchair lift on Type A, B, C and D buses.

(2) The opening will be at least 52 inches high and 40 inches wide and with doors open will be of sufficient width to allow for the installation of various power lifts and related accessories as well as a lifting platform at least 32 inches wide.

(3) The opening will be positioned far enough to the rear of the regular service door opening to prevent interference of the special service door(s) opening with the regular service doors.

(4) A drip molding will be installed above the opening to effectively divert water from the entrance.

(5) Doorposts, headers, and all floor sections around this special opening will be reinforced to provide strength and support equivalent to adjacent side wall and floor construction of an unaltered model.

(6) A header pad at least 3 inches wide, extending the width of special service door, will be placed above the opening on the inside of the bus.

l. Special service door(s).

(1) All doors will open outwardly.

(2) All doors will have positive fastening devices to hold doors in the open position.

(3) All doors will be equipped with heavy-duty hinges and will be hinged to the side of the bus.

(4) All doors will be weather sealed; and on buses with double doors, each door will be of the same size and constructed so a flange on the forward door overlaps the edge of the rear door when closed.

(5) If optional power doors are installed, the design will permit release of the doors for opening and closing by the attendant from the platform inside the bus.

(6) When manually operated dual doors are provided, the rear door will have at least a one-point fastening device to the header. The forward-mounted door will have at least three-point fastening devices: One will be to the header, one will be to the floor line of the body, and the other will be into the rear door. These locking devices will afford maximum safety when the doors are in the closed position. The door and hinge mechanism is to be of a strength that will provide the same type of use as that of a standard entrance door.

(7) If the door is made of one-piece construction, the door will be equipped with a slidebar, cam-operated locking device.

(8) Each door will have installed a safety glass window, set in a waterproof manner, and aligned with the lower line of adjacent sash and as nearly as practical to the same size as other bus windows.

(9) Door materials, panels, and structural strength will be equivalent to the conventional service and emergency doors. Color, rub rail extensions, lettering, and other exterior features will match adjacent sections of the body.

(10) The door(s) will be equipped with a device(s) that will actuate a flashing visible signal located in the driver's compartment when the door(s) is not securely closed. (An audible signal is not permitted.)

m. Special student restraining devices.

(1) Each wheelchair station will be equipped with a lap and torso restraint system that meets applicable FMVSS.

(2) Special restraining devices such as shoulder harnesses, lap belts, and chest restraint systems may be installed to the seats providing that the devices do not require the alteration in any form of the school bus seat, seat cushion, framework, or related seat components. These restraints are for the sole purpose of restraining passengers.

(3) All child safety restraint systems will comply with the requirements of FMVSS No. 213, Child Restraint Systems.

n. Wheelchair securement systems.

(1) Securement systems for wheelchairs will meet or exceed applicable FMVSS.

(2) All wheelchair securement systems or devices will be placed in the vehicle so that, when secured, both wheelchair and occupant are facing toward the front of the vehicle. Fastening devices resulting in a side-facing wheelchair and occupant are not permissible.

(3) Straps or seat-belt devices running through the wheels of the wheelchair or around the student seated in the wheelchair for the purpose of securing the wheelchair to the floor are not acceptable.

(4) The wheelchair securement system(s) will be located in a school bus so that when a wheelchair is not secured in place the floor attachment system does not extend above the floor level more than ½ inch.

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281—44.5(285) Type III vehicles.

44.5(1) *General information.* These vehicles may be used for student transportation in accordance with the following general provisions:

a. The vehicle will be an OEM product and manufactured as a family-type or multipurpose passenger vehicle (MPV).

Vehicles used exclusively for driver's education are exempt from these provisions.

b. The manufacturer's rated capacity of this vehicle, which is determined only by the OEM on the date of manufacture, will not exceed 12 persons including the driver. The capacity rating may not be changed or modified except by the OEM, dealer, or remanufacturer. Secondary stage or vehicle conversion manufacturers will not establish vehicle capacity. Seating capacities that vary from the OEM are required by NHTSA to be identified by an alterer's certification and information label that shall be affixed to the frame of the driver's door.

(1) Vehicles with a capacity of ten or fewer passengers including the driver may be acquired new or used.

(2) Vehicles with a capacity of 11 or 12 passengers, including the driver, may only be acquired used. For purposes of this subrule, "used" means a vehicle that has had a title transfer from a dealer to one or more previous retail owners.

c. Alteration of a vehicle, following manufacture by the OEM, is prohibited. This includes the addition or removal of seats and the addition of wheelchair lifts. The following exceptions apply:

(1) OEM options or other manufacturer's accessories not in violation of these standards may be installed.

(2) Seats may be added or removed as long as the seating capacity does not exceed the capacity as certified by the OEM or on the label installed according to paragraph 44.5(1)*"b."*

(3) Wheelchair ramps are allowed to be added to the passenger side of the vehicle only and will comply with all applicable FMVSS and ADA requirements. When wheelchair ramps are added, the vehicle must also be equipped with the appropriate wheelchair securement system, which must also meet all applicable FMVSS and ADA requirements.

d. The vehicle will not carry more passengers than there are seat belts as installed by the manufacturer.

e. The vehicle will not be painted the color known as National School Bus Glossy Yellow.

f. The vehicle will not be equipped with a stop arm or flashing warning signal lamps.

g. This vehicle will load and unload students off the traveled portion of the roadway.

44.5(2) *Special equipment.*

a. Interior liner. An interior liner that covers all exposed ceiling girders, sidewall posts, or other structural projections is to be provided and installed by the manufacturer.

b. The vehicle, while transporting students to and from school, will display a sign, visible to the rear, with the words "SCHOOL BUS." The sign will be National School Bus Glossy Yellow with black letters 6 inches high. The sign will be a type that can be removed, dismounted, or covered when the vehicle is not transporting pupils to and from school.

c. A sign with the words "THIS VEHICLE STOPS AT ALL RAILROAD CROSSINGS," visible to the rear, may be used where appropriate and not in conflict with current statutes. If used, the words will be black letters on a yellow background. The sign will be of a type that can be dismounted, turned down, or covered when the vehicle is not transporting pupils to and from school.

d. Special brake lamps. The vehicle may be equipped with two roof-mounted lights not greater than 4 inches in diameter and positioned horizontally on the roof at least 36 inches apart. The lights will be connected to the brake lamp circuit of the vehicle's electrical system and will operate only when the brakes are applied. When lit, the lamps will be red and visible only to the rear.

e. First aid kit. A first aid kit meeting the national recommendations (most current National School Transportation Specifications and Procedures Manual—first aid kit) is required on all vehicles used for student transportation.

f. Fire extinguisher. The vehicle will carry a dry chemical fire extinguisher of at least 2½-pound capacity with a rating of 2A-10BC. The extinguisher will be equipped with a calibrated or marked gauge. Plastic discharge heads and related parts are not acceptable.

g. Each vehicle will be equipped with a durable webbing cutter having a full-width handgrip and a protected, replaceable or noncorrodible blade. This device will be mounted in a location accessible to the seated driver in an easily detachable manner.

h. Each vehicle will be equipped with a body fluid cleanup kit.

i. Each vehicle will be equipped with a backup alarm beeper capable of a minimum of 112 db. NOTE: This is effective for 2007 model year vehicles and newer.

j. Trailer hitches are allowed on Type III vehicles in accordance with the manufacturer's rated towing capacity. Students are not allowed to be transported in the vehicle when the vehicle is being used to tow.

44.5(3) *Applicability of standards.* The above standards apply to all vehicles (except as noted in paragraph 44.5(2)*"i"*) of this type and those currently in service used to transport students.

[**ARC 7794C**, IAB 4/17/24, effective 5/22/24; **ARC 8240C**, IAB 10/2/24, effective 11/6/24]

281—44.6(285) Repair, replacement of school bus body and chassis components following original equipment manufacture.

44.6(1) *Body and chassis repair following an accident.*

a. A school bus that has been involved in an accident in which there is damage to the body or chassis components may be repaired to the extent that such repair is possible and that the damaged component can be returned to the OEM's specification and function.

b. The individual or company making the repairs is to certify to the vehicle's owner that all repairs have been made in accordance with the original vehicle or component manufacturer's recommendations using OEM's materials and parts, or their guaranteed equal.

c. Repairs are not to cause the vehicle to no longer comply with any FMVSS in effect and applicable at the time the vehicle or component was manufactured.

44.6(2) *New technology and equipment approval procedure.* It is the intent of these rules to accommodate new technologies and equipment that will better facilitate the transportation of students to and from school and related activities. A new technology, piece of equipment or component that meets the following criteria may be adopted under the following conditions pending formal rule adoption:

a. The technology, equipment or component will not compromise the effectiveness or integrity of any major safety system, unless it completely replaces the system.

b. It will not diminish the safe environment of the interior of the bus.

c. It will not create additional risk to students who are boarding or exiting the bus or are in or near the school bus loading zone.

d. It will not create undue additional activity or responsibility for the driver.

e. It will not generally decrease the safety or efficiency of the bus.

f. It will generally provide for a safer or more pleasant experience for the occupants and pedestrians in the vicinity of the bus or generally assist the driver or make the driver's many tasks easier to perform.

g. A pilot test for the purpose of evaluating the performance of the new technology, product or vehicle component may be conducted at the direction of the school transportation consultant with the approval of the director of the department of education. The pilot test will include a minimum of five, but not more than ten, applications of the technology, product or component at locations and over a period of time to be mutually agreed upon by the department and the manufacturer of the product.

h. The cost of the technology, product or vehicle component and its installation is the responsibility of the manufacturer unless other arrangements are made prior to testing or evaluation.

i. An evaluation of the product's performance shall be conducted by department staff, and if the product is determined to meet the criteria listed in paragraphs 44.6(2)*"a"* to *"f,"* measures will be taken as soon as practicable to formally approve the product.

j. A technology, product or component not recommended for approval by the department will immediately be removed from vehicles upon which pilot tests were being conducted; and its use will be discontinued by schools or individuals serving as pilot test sites, upon receipt of written notice from the department of education.

[**ARC 7794C**, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code sections 285.8 and 321.373.

[Filed 7/1/52; amended 2/13/68, 6/24/69, 8/17/73, 12/21/73, 6/24/75]
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CHAPTER 45
Reserved

TITLE IX
VOCATIONAL EDUCATION

CHAPTER 46
CAREER AND TECHNICAL EDUCATION

Chapter rescission date pursuant to Iowa Code section 17A.7: 5/22/29

281—46.1(256) Federal Act accepted. The provisions of the Act of Congress known as the Carl D. Perkins Career and Technical Education Improvement Act of 2006, codified at 20 U.S.C. §2301 et seq., as amended, and the benefit of all funds appropriated under said Act and all other Acts pertaining to career and technical education, are accepted. All references to this Act in this chapter are to the Act as amended through February 7, 2024.
[**ARC 7795C**, IAB 4/17/24, effective 5/22/24]

281—46.2(256) Definitions. As used in this chapter, the definitions in Iowa Code section 256.125 apply. Additionally, "shared program" means a program or portion of a program offered through an agreement pursuant to Iowa Code section 256.13.
[**ARC 7795C**, IAB 4/17/24, effective 5/22/24]

281—46.3(256) State board for career and technical education. The state board of education constitutes the board for career and technical education. In that capacity, the board will approve the multiyear state plan developed by the director in accordance with applicable federal laws and regulations governing career and technical education.
[**ARC 7795C**, IAB 4/17/24, effective 5/22/24]

281—46.4(256) Career and technical education service areas. Districts shall comply with rule 281—46.5(256) in offering programming pursuant to this rule. Instructors teaching courses pursuant to this rule are to hold and maintain appropriate licensure pursuant to Iowa Code chapter 256, subchapter VII, part 3.

46.4(1) *Grades 7-8.* Pursuant to 281—Chapter 12, districts will offer career exploration and development in grades 7 and 8. Career exploration and development is designed so that students are appropriately prepared to create an individual career and academic plan pursuant to 281—Chapter 49, incorporate foundational career and technical education concepts aligned with the six career and technical education service areas as defined in subrule 46.4(2), and incorporate relevant twenty-first century skills.

46.4(2) *Grades 9-12.* Pursuant to 281—Chapter 12, districts will offer career and technical education programming in the following service areas:

a. Agriculture, food, and natural resources, including the career cluster of agriculture, food, and natural resources.

b. Information solutions, including the career clusters of arts, audio and video technology, and communications; and information technology.

c. Applied sciences, technology, engineering, and manufacturing, including the career clusters of architecture and construction; manufacturing; science, technology, engineering, and mathematics; and transportation, distribution, and logistics.

d. Health sciences, including the career cluster of health science.

e. Human services, including the career clusters of education and training; human services; hospitality and tourism; government and public administration; and law, public safety, corrections, and security.

f. Business, finance, marketing, and management, including the career clusters of business, management, and administration; finance; and marketing.
[**ARC 7795C**, IAB 4/17/24, effective 5/22/24]

281—46.5(256) Standards for career and technical education. The board will adopt content standards for the career and technical education service areas. Districts will include, at a minimum, the content

standards for career and technical education service areas adopted pursuant to this rule in career and technical education programs as the standards are adopted by the board.

[**ARC 7795C**, IAB 4/17/24, effective 5/22/24]

281—46.6(256) Career and technical education program approval and review.

46.6(1) *Secondary program approval.* All career and technical education programs offered by a district are to be approved by the department. As a condition for approval, a district will comply with the following paragraphs:

a. Data collection and analysis. A district, for each program, will conduct an analysis of appropriate data and information related to the program and occupational fields applicable to the program. For purposes of this subrule, data includes, at a minimum, program enrollment numbers and trends by high school, course completion rates and trends, data needed under federal statutes governing career and technical education, and labor market information and socioeconomic and demographic data elements as provided by the partnership.

b. Program report and self-study. A district will create a program report and self-study for each offered program. The program report and self-study includes the following minimum criteria:

(1) Program overview. This section includes an overview of the program's purpose, a summary of data and information as described under paragraph 46.6(1)*"a"* and any conclusions drawn from this data and information, and an analysis of future trends in occupations associated with the program.

(2) Statement of program goals, objectives, and outcomes. This section includes clear statements of the program's goals, objectives, and outcomes, including a justification of the program's goal(s), objective(s), and outcome(s) based on the review conducted under subparagraph 46.6(1)*"b"*(1), and describes methods that will be used to measure the program's stated outcomes.

(3) Competencies. This section describes the established program competencies aligned with state standards pursuant to rule 281—46.5(256) and the program's goals, objectives, and outcomes; includes evidence of advisory committee approval of competencies, technical skill assessment tool(s), and proficiency benchmarks; includes evidence of postsecondary approval of competencies and technical skill assessment tool(s); outlines and describe the coherent sequence of coursework that constitutes the program, including any related foundational and concurrent enrollment coursework, depicted in a plan of study template; describes processes utilized to employ contextualized and effective work-based, project-based, and problem-based learning approaches; describes efforts to integrate career and technical education student organization(s) into the program, if applicable; and describes processes utilized to review and update the curriculum, ensuring continued relevancy to the occupational field.

(4) Student assessment. This section describes how the program will assess student outcomes established under subparagraph 46.6(1)*"b"*(2) and program competencies established under subparagraph 46.6(1)*"b"*(3) and the established technical skill assessment tool(s) to measure competencies, utilizing industry-approved technical skill assessments, where available and appropriate.

(5) Educational resources. This section describes key equipment and materials currently used in instruction; processes to determine whether the equipment is relevant and up to date; processes to maintain the equipment; and new equipment needs, with a description of how the proposed new equipment would improve the program.

(6) Advisory council. This section describes how the program engages with the business community to recruit members for the advisory council pursuant to rule 281—46.8(258) and includes a current member list with titles and company; describes advisory committee meeting logistics including, but not limited to, meeting frequency, agendas, and minutes; details and describes the advice the advisory council has suggested for the program and any actions or results taken by the program that stem from this advice as well as any advice not acted upon by the program; and includes, as an appendix to the narrative, advisory council minutes from the prior year.

(7) Partnerships. This section describes how the program's curriculum is integrated with other curricular offerings required of all students; describes the articulation, contractual agreements for shared courses with community colleges, and other agreements with community colleges and other postsecondary institutions; and describes how the program partners with counselors at various levels to assist all students and stakeholders in the exploration of pathway opportunities within the service area.

(8) Removing barriers. This section describes how the program removes barriers for all students to access education opportunities both while in and beyond high school.

c. Feedback. The district will submit the program report and self-study completed under paragraph 46.6(1)*"b"* to the partnership for peer review and feedback. The partnership is to complete a review of the program report and self-study and provide the district with recommendations and feedback based on that review. The partnership's recommendations will be documented and submitted to the department and the district. The partnership will include in the recommendations a determination of whether the program should or should not receive department approval. A program must be recommended for approval by the partnership for the program to receive approval by the department. The district will modify the program report and self-study based on the partnership's recommendations. The partnership's recommendations will be included as an appendix to the program report and self-study submitted to the department. The final program report and self-study will be submitted by the district to the department.

d. Department approval. Final approval of programs is reserved to the department. Approval will be awarded to a program if clear evidence of compliance with the criteria established in this rule is provided in the program report and self-study under paragraph 46.6(1)*"b."* A program that fails to be approved by the department will have one year to address identified deficiencies and resubmit for approval of the program. The department will provide a summary of the deficiencies in need of addressing.

46.6(2) *Postsecondary program approval.* All community college career and technical education programs will be approved through the process established in 281—Chapter 21.

46.6(3) *Secondary program review.* The program review process will ensure that 20 percent of secondary career and technical education programs are reviewed on an annual basis and that career and technical education programs meet standards adopted by the board. The review will include an assessment of the extent to which the competencies in the program are being mastered by the students enrolled, the costs are proportionate to educational benefits received, the career and technical education curriculum is articulated and integrated with other curricular offerings required of all students, the programs would permit students with career and technical education backgrounds to pursue other educational interests in a postsecondary institutional setting, and the programs remove barriers for all students to access educational and employment opportunities.

a. Secondary program review. As a condition of continuing approval, districts will comply with the following provisions for career and technical education program review. Units of instruction necessary under rule 281—46.4(258) are to have students from each participating high school enrolled. Each district that sends students to a shared program with another district that is used by the sending district to fulfill rule 281—46.4(258) is to have students from the sending district enrolled in the shared program.

(1) Conclusions drawn from annual program measurement. A district will, for each program, annually review and evaluate program outcomes and student assessment data. The district will document any conclusions drawn from the review and evaluation of program outcomes and student assessment data, and how those conclusions impact the future direction of the program. In addition to and as a result of this review, the district will identify program strengths, in order of importance, and describe how these strengths will be maintained; perceived barriers to accomplishing the program's goal(s) and objective(s); and primary opportunities for improvement, in order of importance, and how these opportunities for improvement will be addressed. The district will also review program enrollment and participation data by high school to determine if students from each participating high school have access to the program. The district will describe how the district is ensuring access to the program for all students from each participating high school.

(2) Revision of program goals, objectives, and outcomes. The district is to update and make appropriate revisions to the program, including goals, objectives, and outcomes, as outlined in the program report and self-study based on the results of the activities prescribed under subparagraph 46.6(3)*"a"*(1).

b. Feedback. The district will submit the program report and self-study completed under subparagraph 46.6(3)*"a"*(2) to the partnership for peer review and feedback. The partnership will complete a review of the program report and self-study and provide the district with recommendations and feedback based on the review. The partnership's recommendations are to be documented and submitted to the department and the district. The partnership will include in the recommendations a determination of

whether the program should or should not receive department approval. A program is to be recommended for approval by the partnership for the program to receive approval by the department. The district will modify the program report and self-study based on the partnership's recommendations. The partnership's recommendations will be included as an appendix to the program report and self-study submitted to the department. The final program report and self-study will be submitted by the district to the department.

c. Department approval. Final approval of programs will be reserved for the department. Approval will be awarded to a program if clear evidence of compliance with the criteria established in this rule is provided in the program report and self-study under this rule. A program that fails to be approved by the department will have one year to address identified deficiencies and resubmit for approval of the program. The department will provide a summary of the deficiencies in need of addressing.

46.6(4) *Postsecondary program review.*

a. General. The postsecondary program review process is to ensure career and technical education programs meet standards adopted by the board. The program review will include an assessment of the extent to which:

(1) Students are proficient in the knowledge and skills aligned with industry expectations;

(2) The program yields a positive return on investment for students;

(3) The general education curriculum in the program is aligned with the program outcomes;

(4) The program provides opportunities for students to pursue other educational opportunities, other co-curricular opportunities, or both at the community college;

(5) The program removes barriers for all students, including special populations defined by the Carl D. Perkins Career and Technical Education Improvement Act of 2006, 20 U.S.C. §2301 et seq., to access educational and employment opportunities;

(6) The curriculum is current and relevant;

(7) There is continued professional development of instructors;

(8) The equipment and facilities are adequate;

(9) Student outcomes, including, at a minimum, program enrollment rates, retention rates, completion rates, and employment rates and wages, are disaggregated, at a minimum, by gender, race and ethnicity, and other special populations defined by the Carl D. Perkins Career and Technical Education Improvement Act of 2006, 20 U.S.C. §2301 et seq., and addressed by the program;

(10) The program aligns to additional education and training opportunities; and

(11) The program has implemented prior cycle goals and has developed additional plans for improvement.

b. Process. Each community college will establish a process that ensures at least 20 percent of career and technical education programs are reviewed on an annual basis. The department will ensure compliance with this paragraph through the community college accreditation process established in 281—Chapter 21.

c. Additional components. The following minimum components will also be addressed through the program review process outlined in paragraph 46.6(4)*"a."*

(1) Industry or professional standards. Community colleges will utilize program standards established and recognized by industry or professional organizations when available and appropriate. In lieu of these standards, community colleges will develop program standards through a structured group interview process, which involves committees of incumbent workers within an occupational cluster analyzing standards that include new and emerging technologies, and job-seeking, leadership, entrepreneurial, and occupational competencies. This analysis includes identifying standards that ensure program participants have access to instruction that leads to employment and further training. All standards will be analyzed for the reinforcement of academic skills.

(2) Advisory council. The community college will document how the program engages with the business community to recruit members for the advisory council under rule 281—46.8(258). Program review documentation will include a current member list with titles and employer; advisory committee meeting logistics, including but not limited to meeting frequency, agendas, and minutes; advice the advisory council has suggested for the program; and any actions or results taken by the program that stem from this advice.

(3) Pathways with secondary institutions. Teachers and administrators from both secondary and postsecondary instructional levels (when applicable) meet to identify competencies required at each level and to jointly develop pathways between secondary and postsecondary levels for specific occupational areas. Such collaborative efforts will facilitate the secondary-postsecondary transition and help reduce duplication between the two levels.

46.6(5) *Program modification.* Any modifications to a program are to be approved by the department. Modification includes a change to the courses in the program, a change to the description of a program, discontinuing a program or option, a change to instructional or occupational classification, or changes in program entrance requirements.

[**ARC 7795C**, IAB 4/17/24, effective 5/22/24; **ARC 9103C**, IAB 4/16/25, effective 5/21/25]

281—46.7(258) Accreditation standards not met.

46.7(1) The following are conditions under which a district has failed to meet accreditation standards:

a. A district fails to submit a program for approval under rule 281—46.6(256).

b. A program fails to comply with the corrective action process outlined in paragraph 46.6(1)*"d"* or 46.6(3)*"c."*

46.7(2) Any findings under subrule 46.7(1) will be documented and reviewed as part of the comprehensive desk audit established under Iowa Code section 256.11(10)*"a"*(1).

a. A program identified under paragraph 46.7(1)*"a"* will not be used by a district to satisfy the minimum education program for career and technical education specified under 281—paragraph 12.5(5)*"i."* Such a program is ineligible to receive funds distributed under rule 281—46.9(258).

b. A program identified under paragraph 46.7(1)*"b"* will not be used by a district to satisfy the minimum education program for career and technical education specified under 281—paragraph 12.5(5)*"i."*

[**ARC 7795C**, IAB 4/17/24, effective 5/22/24]

281—46.8(258) Advisory council.

46.8(1) *General.* The board of directors of a school district or community college that maintains a career and technical education program receiving federal or state funds under this chapter will appoint an advisory council, which is governed by Iowa Code section 256.132. An advisory council established under this rule is to meet at least twice annually.

46.8(2) *Joint advisory council.* A school district and a community college that maintain a career and technical education program receiving federal or state funds may create a joint local advisory council that may serve in place of an advisory council under subrule 46.8(1).

46.8(3) *Regional advisory council.* A regional advisory council established by a regional career and technical education planning partnership approved by the department pursuant to rule 281—46.10(258) may serve in place of an advisory council under subrule 46.8(1).

46.8(4) *Membership.* The membership of each advisory council established under this rule is to consist of public members from multiple businesses within the occupation or occupational field related to the career and technical education program and of other stakeholders with expertise in the occupation or occupational field related to the career and technical education program. There will be a good-faith effort to include secondary and postsecondary career and technical education teachers from related secondary and postsecondary programs on the advisory council.

[**ARC 7795C**, IAB 4/17/24, effective 5/22/24]

281—46.9(258) Distribution of career and technical education funds.

46.9(1) An approved regional career and technical education planning partnership is eligible to receive state funds for school districts and community colleges participating in the regional career and technical education planning partnership for purposes allowed under subrule 46.10(6).

a. At the beginning of a fiscal year, the department will assign to each partnership a portion of the total designated career and technical education funds appropriated to the department. The department will disburse funds to a partnership following approval of the multiyear plan pursuant to subrule 46.10(2).

b. Each partnership will be assigned a portion of the total career and technical education funds based on the following formula:

(1) Half of the total career and technical education funds to be disbursed equally between the approved partnerships.

(2) Half of the total career and technical education funds to be disbursed based on the number of students enrolled in approved career and technical education programs.

46.9(2) All federal funds shall be spent pursuant to the state plan pursuant to the federal Carl D. Perkins Career and Technical Education Improvement Act of 2006, codified at 20 U.S.C. §2301 et seq., as amended.

46.9(3) An approved regional career and technical education planning partnership receiving funds under this rule will comply with financial monitoring processes established by the department.

a. At the end of the state fiscal year, the fiscal agent of an approved regional career and technical education planning partnership will submit to the department financial forms and other evidence documents necessary for the department to complete a comprehensive review of all transactions completed during the previous fiscal year that involve state and federal funds issued to the approved regional career and technical education planning partnership by the department. Documentation will be submitted by the regional career and technical education planning partnership in a manner prescribed by the department.

b. Instances of transactions involving state and federal funds issued to an approved regional career and technical education planning partnership that are found to be noncompliant with state and federal regulations governing the use of such funds, including subrule 46.10(6), will be documented by the department.

(1) The fiscal agent of the approved regional career and technical education planning partnership will be notified of any instances of noncompliance, and prepare, in consultation with the regional career and technical education planning partnership and department, a corrective action plan. The plan will, at a minimum, detail the policies and procedures to be implemented by the fiscal agent to ensure that subsequent transactions involving state and federal funds issued to the regional career and technical education planning partnership are compliant with applicable state and federal regulations.

(2) The corrective action plan is to be approved by the regional career and technical education planning partnership and submitted to the department for approval through the annual approval process established under subrule 46.10(2). The department will review and approve or deny approval of the corrective action plan. A regional career and technical education planning partnership required to create a corrective action plan must secure approval of the corrective action plan to be awarded continuing approval. A regional planning partnership that fails to secure continuing approval is subject to paragraph 46.10(2)*"c."*

[**ARC 7795C**, IAB 4/17/24, effective 5/22/24]

281—46.10(258) Regional career and technical education planning partnerships. Regional career and technical education planning partnerships are established to assist school districts in providing an effective, efficient, and economical means of delivering high-quality secondary career and technical education programs.

46.10(1) *Establishment.* Partnerships will be established to serve all school districts in the state no later than June 30, 2017.

a. There are established in the state no fewer than 12 and no more than 15 regions in which partnerships may operate.

b. A partnership will be considered established if approved pursuant to subrule 46.10(2).

c. Convening the regional career and technical education planning partnership is the joint responsibility of the area education agency and community college located within the region. In convening the partnership, the area education agency and community college will secure the participation of interim members of the partnership. When selecting interim members, the area education agency and community college are to ensure the membership provisions of subrule 46.10(3) are satisfied.

46.10(2) *Approval.* All partnerships will be approved by the department. As a condition of approval, each partnership will meet the following provisions:

a. Approval. Each partnership adopts bylaws in a manner and format prescribed by the department. The partnership submits to the department the partnership's bylaws, a membership list that clearly denotes the membership under subrule 46.10(3) and the chair, vice-chair, and secretary, the designated fiscal agent for the partnership, minutes from recent meetings, and a schedule of future meetings.

b. Continuing approval. By June 30, 2018, and for each subsequent year, each partnership is to adopt a multiyear plan satisfying subrule 46.10(5). The multiyear plan and documents under paragraph 46.10(2) *"a"* will be reviewed and, as necessary, revised on an annual basis by the partnership and submitted to the department. To maintain approval, the partnership will maintain evidence that the duties assigned to the partnership under subrule 46.10(4) are performed on a continuing basis. In awarding continuing approval, the department will consider documented findings from the financial monitoring process established under subrule 46.9(3).

c. Failure to maintain approval. If the department denies or grants conditional approval of a partnership, the director, in consultation with the partnership, will establish a plan detailing all areas of deficiency and prescribing the procedures that must be taken to achieve approval and a timeline for completion of the prescribed procedures. A final plan will be submitted to the director within 45 days following notice of the department denying or granting conditional approval of a partnership. The partnership will continue to perform the duties assigned to the partnership under subrule 46.10(4) for the duration of the timeline established in the plan. If at the end of the timeline established in the plan the noted deficiencies have not been adequately addressed, the partnership will be denied approval. Within one year of the action to deny approval of the partnership, the director will establish a plan that details how the partnership will be merged or restructured.

d. Resolution of disputes. In the event of a dispute regarding the assignment of a district to a partnership under this rule, the director will first attempt to mediate the dispute. If mediation is unsuccessful, the director will schedule a hearing to obtain testimony. At the sole discretion of the director, the hearing may be held electronically or in person. The director will issue within ten days after the hearing a written decision that is a final administrative decision.

46.10(3) *Membership.* The membership of each partnership will consist of stakeholders in a position to contribute to the development and successful implementation of high-quality career and technical education programs. Each district that falls within the boundaries of the partnership will be represented on the partnership. Once established pursuant to subrule 46.10(1), the partnership is responsible for identifying and maintaining appropriate membership. Membership of the partnership will include the following:

a. The superintendent of a school district within the regional planning partnership, or the superintendent's designee.

b. The president of a community college within the regional planning partnership, or the president's designee.

c. The chief administrator of an area education agency within the regional planning partnership, or the chief administrator's designee.

d. Representatives of regional economic and workforce entities including regional advisory boards established under Iowa Code section 84A.4.

e. Representatives of business and industry, including representatives of regional industry sector partnerships.

f. Career and technical education secondary teachers and postsecondary faculty.

46.10(4) *Duties.* The partnership will perform the following duties on a continuing basis:

a. Develop a multiyear plan pursuant to subrule 46.10(5), which is to be updated annually.

b. Collect and review all relevant plans pursuant to the federal Carl D. Perkins Career and Technical Education Improvement Act of 2006, codified at 20 U.S.C. §2301 et seq., as amended; career and academic plans under 281—Chapter 49; and regional labor market, socioeconomic, and demographic information for purposes of facilitating the program review process specified under paragraph 46.10(4)*"f"* and regional activities specified in the state plan developed under the aforementioned federal Act.

c. Ensure compliance with standards adopted by the board for regional career and technical education planning partnerships.

d. Appropriately expend career and technical education funds in accordance with subrule 46.10(6) assigned to the partnership pursuant to rule 281—46.9(258).

e. Collect, review, and make available to districts appropriate labor market, socioeconomic, and other state, regional, or national information necessary for completing the program approval and review process pursuant to rule 281—46.6(256).

f. Review career and technical education programs of school districts within the region and recommend to the department career and technical education programs for approval in accordance with subrules 46.6(1) and 46.6(3).

g. Coordinate and facilitate advisory councils for career and technical education programs and, as necessary, establish regional advisory councils to serve in the same capacity as local advisory councils.

h. Plan for regional centers with the purpose of achieving equitable access to high-quality career and technical education programming and concurrent enrollment opportunities for all students.

46.10(5) *Multiyear plan.* The multiyear plan developed by the partnership will outline the partnership's goals, objectives, and outcomes; how the partnership will execute the authority and duties assigned to the partnership; how the partnership will secure collaboration with secondary schools, postsecondary educational institutions, and employers to ensure students have access to high-quality career and technical education programming, including career academies, that aligns career guidance, twenty-first century career and technical education and academic curricula, and work-based learning opportunities that empower students to be successful learners and practitioners; and how the partnership will ensure compliance with standards established under this rule. In addition, the multiyear state plan will include the following components:

a. Goals, objectives, and outcomes. The plan will detail the partnership's goals, objectives, and outcomes, which will include the following goals:

(1) Promote career and college readiness through thoughtful career guidance and purposeful academic and technical planning practices.

(2) Promote high-quality, integrated career and technical education programming, including career academies and the delivery of quality career and technical education programs by school districts in fulfillment of rule 281—46.4(256) comprised of secondary exploratory and transitory coursework to prepare students for higher-level, specialized academic and technical training aligned with labor market needs.

(3) Afford students the opportunity to access a spectrum of high-quality work-based learning experiences through collaboration with a work-based learning intermediary network.

(4) Afford all students equitable access to programs and encourage the participation of underrepresented student populations in career and technical education programming.

b. Process to measure goals, objectives, and outcomes. The plan will outline the processes to be used by the partnership to measure all goals, objectives, and outcomes established pursuant to paragraph 46.10(5)*"a."*

c. Program approval and review process. The plan will outline the process the partnership will utilize in reviewing career and technical education programs of school districts within the region based on standards established in rule 281—46.6(256). The process will detail how 20 percent of programs will be reviewed on an annual basis. The partnership will provide a written five-year program review schedule that clearly indicates the specific year in which a program is to be reviewed within the five-year cycle.

d. Advisory councils. The plan will outline the process that the partnership will utilize in coordinating and facilitating local advisory councils for career and technical education programs under rule 281—46.8(258) and establishing regional advisory councils to serve in the same capacity as local advisory councils, as necessary.

e. Use of funds. The plan will detail the partnership's budget including intended use of funds designated to the partnership pursuant to rule 281—46.9(258). The intended use of funds will comply with subrule 46.10(6) and be clearly connected to the goals, objectives, and outcomes of the partnership established under paragraph 46.10(5)*"a"* and the needs of career and technical education programs and teachers as identified through the program approval and review process under rule 281—46.6(256).

f. Planning for regional centers. The plan will outline the process that the partnership will utilize in planning for regional centers, consistent with rule 281—46.12(258), with the purpose of achieving equitable access to high-quality career and technical education programming and concurrent enrollment opportunities for all students.

g. Meeting regularly. The plan will outline the intended schedule of partnership meetings for a five-year period. The partnership will meet at least twice per academic year.

h. Annual review of multiyear plan. The plan will outline the process to be utilized by the partnership to annually review and, as necessary, revise the plan. This process is to ensure that all members and stakeholders are included in the review and revision of the plan. The partnership will maintain a written record of all reviews of and revisions to the plan.

i. Assurance statement. The plan shall include, in a format prescribed by the department, an assurance that in all operations of and matters related to the partnership, the partnership does not discriminate against individuals protected under federal and state civil rights statutes.

46.10(6) *Secondary career and technical education funds.* An approved regional career and technical education partnership may use funds received from state and federal sources on behalf of school districts and community colleges participating in the regional career and technical education planning partnership for the following:

a. Staffing and resources to ensure the minimum duties and responsibilities assigned to the regional planning partnership under subrules 46.10(4) and 46.10(5) are satisfactorily executed. The partnership will ensure adequate staffing and resources are committed to these purposes prior to allocating funds for any use authorized under paragraph 46.10(6)*"b."*

b. To offer regional career and technical education professional development opportunities; coordinate, maintain, and support a career guidance system pursuant to 281—Chapter 49 and related work-based learning opportunities for students; and purchase career and technical education equipment and curricular resources to include standard classroom consumable supplies directly related to and necessary for the course curriculum, other than basic consumable supplies that will be made into products to be sold or used personally by students, teachers, and other persons.

[**ARC 7795C**, IAB 4/17/24, effective 5/22/24; **ARC 9103C**, IAB 4/16/25, effective 5/21/25]

281—46.11(258) Career academies.

46.11(1) *Establishment and responsibilities.* A career academy may be established under an agreement between a single school district and a community college, or by multiple school districts and a community college organized into a regional career and technical education planning partnership pursuant to rule 281—46.10(258). A career academy established under this rule will be a career-oriented or occupation-oriented program of study that includes a minimum of two years of secondary education, which may fulfill the sequential unit requirement in one of the four service areas pursuant to 281—subrule 12.5(5), includes concurrent enrollment programming aligned with a postsecondary education program that meets the requirements of 281—Chapter 22, and is approved by the director. A career academy will do all of the following:

a. Utilize regional career and technical education planning partnerships outlined in rule 281—46.10(258) in an advisory capacity to inform the selection and design of the career academy and establishment of industry standards.

b. Establish a program of study that meets all of the following criteria:

(1) Is designed to meet industry standards and prepare students for success in postsecondary education and the workforce.

(2) Integrates academic coursework; includes foundational and transitory career and technical education coursework; includes either work-based learning or the potential to earn an industry-recognized credential or a community college credential as defined in 281—subrule 21.2(9); and utilizes the individual career and academic planning process established under 281—Chapter 49.

(3) Integrates as a portion of the career academy a hands-on, contextualized learning component.

(4) Allows students enrolled in the academy an opportunity to continue on to an associate degree and, if applicable, a postsecondary baccalaureate degree program.

Only institutions that comply with the provisions of this rule may use the term "career academy."

46.11(2) *Contract or agreement.* A career academy must receive approval from district and community college boards participating in the career academy. A contract or 28E agreement is to set forth the purposes, powers, rights, objectives, and responsibilities of the contracting parties and be signed by all participating parties and be in effect prior to initiation of a career academy. An assurance form, as defined by the department, which specifies that the career academy includes all the components under this rule will be sent to the director.

46.11(3) *Faculty.* Faculty providing college credit instruction in a career academy program of study will meet community college faculty minimum standards as specified in 281—subrule 24.5(1) and the quality faculty plan as approved by the community college board pursuant to 281—subrule 24.5(7). Instructors teaching courses that provide only secondary level credit are to have appropriate secondary licensure pursuant to Iowa Code chapter 256, subchapter VII, part 3.

46.11(4) *Compliance.* Districts and community colleges will maintain compliance with the federal Carl D. Perkins Career and Technical Education Improvement Act of 2006, 20 U.S.C. §2301 et seq., as amended, in implementing career academies.

46.11(5) *Data collection.* Data collection and enrollment reporting is to contain such items as determined by the department.

[**ARC 7795C**, IAB 4/17/24, effective 5/22/24; **ARC 9103C**, IAB 4/16/25, effective 5/21/25]

281—46.12(258) Regional centers. The state board will adopt standards pertaining to regional centers. The standards include those which provide for increased and equitable access to high-quality career and technical education programs and require that regional centers incorporate appropriate educational programs, meet appropriate state and federal regulations for safety and access, maintain adequate participation, and are located within an appropriate distance of participating high schools, and that transportation is provided to all students.

46.12(1) *Minimum requirements.* As a condition for approval, a regional center will comply with standards adopted by the board and consist of a minimum of four career academies on site. A regional center will be compatible with the development of a statewide system of regional centers serving all students. A regional center will serve either of the following:

a. A combined minimum of 120 students from no fewer than two school districts.

b. A minimum of four school districts.

46.12(2) *Approval.* The director will approve all facilities meeting the standards for regional centers under this rule.

[**ARC 7795C**, IAB 4/17/24, effective 5/22/24]

281—46.13(423F) Career academy incentive fund. A career academy incentive fund is a competitive grant program established by the department to expand opportunities for students to access high-quality career and technical education programming through innovative partnerships between school districts and community colleges.

46.13(1) *Allowable expenses.* Funding issued under this rule will be used by the recipient for purposes outlined in the proposal approved by the department to support the development of career academy infrastructure, including regional centers as defined under rule 281—46.12(258). For purposes of this rule, allowable expenses include the following:

a. Purchase and improvement of grounds, including the legal costs relating to the property acquisition and surveys of the property.

b. Construction of buildings and roads to buildings.

c. Purchase or lease-purchase option agreements for buildings.

d. Rental of facilities under Iowa Code chapter 28E.

e. Purchase, lease, or lease-purchase of equipment or technology exceeding $500 in value per purchase or lease-purchase transaction. “Equipment” means both equipment and furnishings.

f. Repair, remodel, reconstruction, improvement, or expansion of buildings and the additions to existing buildings.

46.13(2) *Applicants.* Institutions eligible to apply for funds include a school district as defined under rule 281—12.2(256) or community college as defined under Iowa Code chapter 260C.

46.13(3) *Application proposals.* Institutions seeking funds under this rule shall submit an application proposal to the department in a format prescribed by the department. An application for funding that includes more than one institution will designate a single institution to receive funds on behalf of all participating institutions. At a minimum, all applications will include one school district and one community college, though applications consisting of multiple school districts and a community college are encouraged.

a. Service area and aligned occupation. Program information will be collected to identify the aligned service area and in-demand occupation as identified by the state workforce development board pursuant to Iowa Code section 84A.1B(14).

b. Offerings and enrollments. Information will be provided on all career academy offerings made available by the participating institutions. All school districts will provide actual or estimated enrollment by high school in each of the offered career academies over the proceeding five-year period.

c. Program structure. Each proposal will include a response to the following components:

(1) A sequence of coursework, inclusive of all aligned middle school, high school, and postsecondary offerings that constitute the career academy. The sequence of coursework is developed collaboratively between the school district or school districts and community college, and is to be depicted in a template provided by the department.

(2) A description and evidence of integrated project-, problem-, and work-based learning experiences.

(3) Identification of the third-party industry certifications either made available to the student through the program or which the program prepares the student to complete.

d. Partnerships. If applicable, the applicant will provide information on all partnering institutions, and the extent to which each partnering institution is contributing resources to the initiative, including funds, staff, equipment, or other related resources.

e. Business and industry involvement. If applicable, the applicant will provide information on business and industry involvement, including input solicited on offerings, donation of equipment, and contribution of funds.

f. Approved contracts. Each district participating in the career academy will submit as evidence the contract approved by the district's board established pursuant to subrule 46.11(2).

46.13(4) *Criteria for evaluating proposals.*

a. Priority. Application proposals will be ranked and sorted according to the following priorities:

(1) First priority. Proposals for a minimum of four new career academies delivered collaboratively between multiple school districts and a community college through a regional center as defined under rule 281—46.12(258) will receive priority consideration.

(2) Second priority. Proposals for existing career academies or establishing a new career academy delivered collaboratively between multiple school districts and a community college through an existing regional center as defined under rule 281—46.12(258) will receive second-priority consideration.

(3) Third priority. Proposals for new or existing career academies delivered through partnership arrangements other than a regional center, including but not limited to individual career academy offerings delivered by one school district, will receive third-priority consideration.

b. Occupational alignment. Proposals for career academies aligned with high-demand occupations as identified by the state workforce development board pursuant to Iowa Code section 84A.1B(14) will be given preferential consideration.

c. Improving access. Proposals for career academies that demonstrate that the grant funds will result in improved access to career and technical education programs for all students enrolled in participating school districts, including underrepresented and nontraditional students, as well as underserved geographical areas, will be given preferential consideration.

d. Program structure. The proposals will be evaluated to determine the extent to which the components of paragraph 46.13(3)*"c"* are evident in the career academy program.

e. Additional criteria. Subject to paragraphs 46.13(4)*"a"* and *"b,"* proposals will be evaluated against additional criteria including the following:

(1) Actual or projected enrollment for each participating high school over a five-year period is of sufficient size to support robust and sustainable offerings and justify the request for funding.

(2) Cumulative offerings provide students with access to a diverse array of coursework in multiple career and technical education service areas.

(3) If programming is delivered at an off-site location, the sending school district provides transportation to participating students.

f. Budget. Institutions will submit a complete budget for the proposal, including a comprehensive summary of costs and a complete list of funding sources to be put toward implementing and sustaining the initiative.

g. Regional center plan. Evidence will be provided to the department that the regional planning partnership established under this chapter and in which the applicants are participating members has developed a plan for regional centers under paragraph 46.10(4)*"h."* The plan will identify any underserved areas of the region, including areas of low career and technical education enrollment and program offerings.

46.13(5) *Awarding grants.* The department may fully or partially award funds for proposals submitted pursuant to subrule 46.13(3).

a. The department will award funds for first-priority proposals that meet the criteria established in rank order. The department may award funds for second- and third-priority proposals based on availability of funds.

b. A grant award issued under this rule is subject to the limits in Iowa Code section 257.51(3).

46.13(6) *Distribution of awarded grants.* The department will award funds to the designated fiscal agent for approved proposals according to a payment schedule set by the department in consultation with the applicant. Initiatives approved for funding under this rule are to be completed within the agreed-upon time frame established in the payment schedule, with final payment awarded upon receipt of evidence that the initiative was completed as specified in the approved proposal, unless a waiver issued at the discretion of the director grants the recipient additional time to complete the approved proposal. Any unclaimed award balance will be used by the department to fund future initiatives under this rule.

[**ARC 7795C**, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapter 256, subchapter VII, part 2.

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[Filed ARC 2947C (Notice ARC 2855C, IAB 12/7/16), IAB 2/15/17, effective 3/22/17][1]
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[Filed ARC 7795C (Notice ARC 7592C, IAB 2/7/24), IAB 4/17/24, effective 5/22/24]
[Filed ARC 9103C (Notice ARC 8759C, IAB 1/8/25), IAB 4/16/25, effective 5/21/25]

[1] March 22, 2017, effective date of ARC 2947C [the rescission of Chapters 46 and 47 and the adoption of new Chapter 46] delayed until the adjournment of the 2018 General Assembly by the Administrative Rules Review Committee at its meeting held March 10, 2017.

CHAPTER 47
CAREER ACADEMIES

[Formerly Ch 28 under Department of Public Instruction]
[Prior to 9/7/88, see Vocational Education Advisory Council[843] Ch 1]

Rescinded **ARC 2947C**, IAB 2/15/17, effective 3/22/17

March 22, 2017, effective date of ARC 2947C [the rescission of Chapters 46 and 47 and the adoption of new Chapter 46] delayed until the adjournment of the 2018 General Assembly by the Administrative Rules Review Committee at its meeting held March 10, 2017.

CHAPTER 48
WORK-BASED LEARNING

Rescinded **ARC 7659C**, IAB 3/6/24, effective 4/10/24

CHAPTER 49
INDIVIDUALIZED CAREER AND EDUCATION PLAN

Chapter rescission date pursuant to Iowa Code section 17A.7: 4/10/29

281—49.1(279) Definitions. For purposes of this chapter, the following definitions apply:

"Approved system" means a vendor-provided career information and decision-making system that meets the standards of rule 281—49.5(279).

"Board" means the board of directors of a public school district.

"Career cluster" means a nationally recognized framework for organizing and classifying career and technical education programs.

"Department" means the Iowa department of education.

"Director" means the director of the Iowa department of education.

"District plan" means the career and academic plan developed by each school district that details the delivery of career guidance and development in compliance with this chapter.

"Educational program" means the educational program as defined in 281—Chapter 12.

"Plan" means the individualized career and academic plan established under this chapter that is created by each student of the school district in eighth grade and which, at a minimum, meets the standards of rule 281—49.2(279).

"Postsecondary readiness" means college and career readiness in Iowa as defined by the state board of education.

"School counseling program" means the school counseling program established by Iowa Code section 256.11(9A).

"Student" means an enrolled student as defined in 281—Chapter 12.

"Work-based learning" means planned and supervised connections of classroom, laboratory and industry that prepare students for current and future careers.

[**ARC 7659C**, IAB 3/6/24, effective 4/10/24]

281—49.2(279) Individualized career and academic plan. The plan established under this rule is to, at a minimum, comply with the provisions of Iowa Code section 279.61.

[**ARC 7659C**, IAB 3/6/24, effective 4/10/24]

281—49.3(279) Essential components. The district is to engage each student in activities that support the following essential components of the individualized career and academic plan:

49.3(1) *Self-understanding.* Students are to engage in developmentally appropriate inventories and assessments that promote self-understanding and the connection to work and engage in meaningful reflective activities about the results.

49.3(2) *Career information.* Students are to research careers based on self-understanding results and engage in meaningful reflection about the findings.

49.3(3) *Career exploration.* Students are to engage in activities that reveal connections among school-based instruction, career clusters, and the world of work and engage in meaningful reflection.

49.3(4) *Postsecondary exploration.* Students are to engage in activities to explore relevant postsecondary education and training options related to career interests and engage in meaningful reflection on the exploration experience.

49.3(5) *Career and postsecondary decision.* Students are to complete relevant activities to meet their postsecondary goals consistent with the plan and stated postsecondary intention.

[**ARC 7659C**, IAB 3/6/24, effective 4/10/24]

281—49.4(279) District plan.

49.4(1) *Components of district plan.* The school district shall develop a written career plan. The district plan is to include the following components:

a. The district is to, at a minimum, describe the following aspects of the district plan:

(1) The activities to be undertaken in each grade level to achieve the provisions of rule 281—49.2(279).

(2) Integration of the career plan within connected district initiatives and other facets of the school district's comprehensive school counseling program.

(3) At the district's discretion, any additional outcomes to be integrated into the career and academic planning system.

b. Designation of team. The superintendent of each school district is to designate a team of education practitioners to carry out the duties assigned to the school district under this rule. The district plan is to include a list, by job position, of the designated district team.

(1) Team composition. The team will include a school administrator; a school counselor; teachers, including career and technical education teachers; and individuals responsible for coordinating work-based learning activities.

(2) Duties. The team is responsible for the following:

1. Implementation of the district plan.
2. Annually reviewing and, as necessary, proposing to the school district revisions to the district plan.
3. Coordination of activities which integrate essential components into classroom instruction and other facets of the school district's educational program.
4. Regularly consulting with representatives of employers, state and local workforce systems and centers, higher education institutions, and postsecondary training programs.

49.4(2) *Maintenance of district plan.* The district plan will be regularly reviewed and revised by the team and the board.

[**ARC 7659C**, IAB 3/6/24, effective 4/10/24]

281—49.5(279) Career information and decision-making systems. Each district shall use a career information and decision-making system that meets the standards established in subrule 49.5(3).

49.5(1) *Review process.* The department will establish a process for the review of vendor-provided career information and decision-making systems to determine which career information and decision-making systems meet the minimum specifications established in subrule 49.5(3).

49.5(2) *State-designated system.* The department will establish a process for the review and approval of a single state-designated career information and decision-making system from among the systems approved through the process established in subrule 49.5(1), which districts may use in compliance with this chapter.

49.5(3) *Minimum functions of approved systems.* An approved system is to, at a minimum, support implementation of rule 281—49.2(279) and meet the following specifications:

a. Allow for the creation of student accounts, which allow a student to store and access the results and information gathered from the inventories, searches, and associated activities outlined in paragraphs 49.5(3)*"b"* through *"d."*

b. Include developmentally appropriate inventories and assessments that promote self-understanding and the connection to work. Inventories and assessments are to include an interest inventory; a work values assessment; and an abilities, strengths, or skills assessment.

c. Include a search platform for career information. The platform is to allow a student to access and review career information related to the results of the inventories listed in paragraph 49.5(3)*"b."* Career information will include current and accurate state and national wage, earning, and employment outlook data for a given occupation; job descriptions, including such information as essential duties and aptitudes; and training and education requirements. The career information search platform is to, at a minimum, allow a student to sort information by wage and earning, career cluster, and training and education requirements.

d. Include a search platform for postsecondary information. Postsecondary information is to include, but not be limited to, a current, accurate, and comprehensive database of accredited professional colleges, technical and community colleges, and public and private baccalaureate colleges and universities; and include or provide links to apprenticeship and military opportunities. The postsecondary information search platform will, at a minimum, allow a student to sort information by program and degree type, institution type, location, size of enrollment, and affiliation and appropriate institutional characteristics, such as

designation as a historically black college and university or Hispanic-serving institution, and religious affiliation.

e. Track basic utilization for the functions outlined in paragraphs 49.5(3)*"a"* through *"d."* Districts are to have the ability to generate and export a report on the utilization statistics.

f. Ensure compliance with applicable federal and state civil rights laws.

g. Disclose the source and age of, as well as frequency of updates to, all information and data.

h. Provide auxiliary services, including:

(1) A process for districts to submit comments, feedback, and modification requests to the vendor.

(2) Technical assistance during regular school district operating hours.

(3) Appropriate training for users.

49.5(4) *Supplemental systems.* The department will maintain a list of supplemental systems that districts may use to satisfy the components of rule 281—49.2(279).

a. The department is to establish a process for the review of supplemental systems. The review will, at a minimum, identify the components of rule 281—49.2(279) and paragraphs 49.5(3)*"b"* through *"d,"* which are satisfied through the supplemental system. All supplemental systems are to comply with paragraphs 49.5(3)*"f"* and *"g."*

b. A district that chooses to use a supplemental system is to specify which components of rule 281—49.2(279) are satisfied through the use of the supplemental system in the district plan established in rule 281—49.4(279). A district that chooses to utilize a supplemental tool must continue to utilize and make available to students an approved system.

[**ARC 7659C**, IAB 3/6/24, effective 4/10/24]

281—49.6(279) Compliance. The director will monitor school districts for compliance with the provisions of this chapter through the accreditation process established for school districts under 281—Chapter 12.

49.6(1) *Maintenance of student records.* Each school district is to maintain evidence of student completion of the individualized career and academic plan established in rule 281—49.2(279), pursuant to rule 281—12.3(256).

49.6(2) *Reporting.* The board of directors of each school will complete the reports set forth in Iowa Code section 279.61(5). The board is to report to the department at least annually, and in a manner and frequency established by the department, regarding student participation in work-based learning programs established by the board, including registered apprenticeships, quality pre-apprenticeships, internships, on-the-job training, and projects through the Iowa clearinghouse for work-based learning.

49.6(3) *Department responsibilities.* Iowa Code section 279.61(6) is incorporated by this reference.

[**ARC 7659C**, IAB 3/6/24, effective 4/10/24]

281—49.7(256) Program established. The provisions of this rule implement the future ready Iowa state-recognized work-based learning program as authorized under Iowa Code section 256.7 and chapter 256, subchapter VII, part 4.

49.7(1) *Definitions.* As used in this rule:

"Apprenticeship program" means an apprenticeship program authorized under federal statute or by the Iowa office of apprenticeship.

"Eligible program" means a program eligible under the future ready Iowa skilled workforce last-dollar scholarship program.

49.7(2) *Alignment with last-dollar scholarship.* The rules governing eligibility for students, programs, and institutions are the same as the eligibility criteria specified in 283—Chapter 15 for the future ready Iowa skilled workforce last-dollar scholarship program.

49.7(3) *Eligibility.* Pursuant to 283—subparagraph 15.3(1)*"j"*(2), a student enrolled in an apprenticeship program aligned to an eligible program may be enrolled in an eligible program on a part-time basis.

[**ARC 7659C**, IAB 3/6/24, effective 4/10/24]

These rules are intended to implement Iowa Code section 279.61.

[Filed Emergency ARC 2620C, IAB 7/20/16, effective 6/21/16]

[Filed ARC 2749C (Filed Emergency ARC 2627C, IAB 7/20/16), IAB 10/12/16, effective 11/16/16]

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[Filed ARC 7659C (Notice ARC 7164C, IAB 12/13/23), IAB 3/6/24, effective 4/10/24]

CHAPTER 50
Reserved

TITLE X
VETERANS' TRAINING

CHAPTER 51
VETERANS' EDUCATION AND TRAINING

[Prior to 9/7/88, see Public Instruction Department[670] Ch 24]
Prior to 9/7/88, see Public Instruction Department[671] Chs 24 and 25
Prior to [publication of the AF], see Education Department[281] Chs 51 and 52

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/31/29

281—51.1(256) Apprenticeships and on-the-job training programs for veterans. For approval of apprenticeships and on-the-job training programs, the following provisions of the Code of Federal Regulations, as of October 4, 2023, are incorporated by reference: 38 CFR Sections 21.4001 through 21.4009, 21.4150 through 21.4155, 21.4200 through 21.4206, 21.4209 through 21.4216, 21.4234, 21.4261, and 21.4262.
[**ARC 7422C**, IAB 12/27/23, effective 1/31/24]

281—51.2(256) Educational institutions. For approval of educational institutions, the following provisions of the Code of Federal Regulations, as of October 4, 2023, are incorporated by reference: 38 CFR Sections 21.4001 through 21.4009, 21.4150 through 21.4155, 21.4200 through 21.4206, 21.4209 through 21.4216, 21.4232 through 21.4236, 21.4250 through 21.4259, and 21.4263 through 21.4268.
[**ARC 7422C**, IAB 12/27/23, effective 1/31/24]

These rules are intended to implement 38 CFR Part 21.

[Filed 7/1/52]
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CHAPTER 52
APPROVAL OF EDUCATIONAL INSTITUTIONS FOR THE EDUCATION AND TRAINING OF ELIGIBLE VETERANS UNDER THE MONTGOMERY G.I. BILL

[Prior to 9/7/88, see Public Instruction Department[670] Ch 25]

Rescinded **ARC 7422C**, IAB 12/27/23, effective 1/31/24

CHAPTERS 53 and 54
Reserved

CHAPTER 55
EDUCATIONAL DATA PROCESSING

Rescinded, IAB 9/7/88

VOCATIONAL REHABILITATION EDUCATION

TITLE XI

CHAPTER 56
IOWA VOCATIONAL REHABILITATION SERVICES

[Prior to 9/7/88, see Public Instruction Department[670] Ch 35]

Transferred to 877—Chapter 33, IAC Supplement 8/23/23

CHAPTER 57
Reserved

TITLE XII
PROGRAMS ADMINISTRATION

CHAPTER 58
SCHOOL BREAKFAST AND LUNCH PROGRAM; NUTRITIONAL CONTENT STANDARDS FOR OTHER FOODS AND BEVERAGES

[Prior to 9/7/88, see Public Instruction Department[670] Ch 10]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/31/29

281—58.1(256,283A) School breakfast and lunch program. The following regulations from the United States Department of Education's Food and Nutrition Service governing the National School Lunch and School Breakfast programs and effective as of January 31, 2024, are incorporated by reference: 7 CFR Parts 210, 215, 220, 225, 226, 227, 235, 240, 245, and 250, as well as related procurement regulations at 2 CFR Sections 200.317 through 200.326.

[**ARC 7428C**, IAB 12/27/23, effective 1/31/24]

281—58.2(256) Nutritional content standards for other foods and beverages. The following regulation, as of January 31, 2024, is incorporated by reference: 7 CFR Section 210.11.

[**ARC 7428C**, IAB 12/27/23, effective 1/31/24]

These rules are intended to implement Iowa Code chapter 283A and sections 256.7(29) and 256.9(51).

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CHAPTER 59
GIFTED AND TALENTED PROGRAMS

[Prior to 9/7/88, see Public Instruction Department[670] Ch 56]
[Former Ch 59 Rescinded IAB 9/7/88]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/31/29

281—59.1(257) General principles. Gifted and talented programs shall be provided by a school district and may be made available to eligible students as a cooperative effort between school districts or through cooperative arrangements between school districts and other educational agencies. It is the responsibility of school districts to ensure that the programs comply with state statute and this chapter.
[**ARC 7433C**, IAB 12/27/23, effective 1/31/24]

281—59.2(257) Definitions. For the purposes of this chapter, the following definitions apply:

"Department" means the department of education.

"Gifted and talented students" means the same as "gifted and talented children" as defined in Iowa Code section 257.44. For purposes of that section, the following definitions apply:

1. "Creative thinking" refers to students who have advanced insight, outstanding imagination and innovative reasoning ability. Such students possess outstanding ability to integrate seemingly unrelated information in formulating unique ideas, insights, solutions, or products.
2. "General intellectual ability" refers to students who can learn at a faster pace, master higher levels of content and handle abstract concepts at a significantly higher level than expected, given the student's chronological age and experiences.
3. "Leadership ability" refers to those students who possess outstanding potential or demonstrated ability to exercise influence on decision making. These students may be consistently recognized by their peers, may demonstrate leadership behavior through school and nonschool activities or may evidence personal skills and abilities that are characteristic of effective leaders.
4. "Specific ability aptitude" refers to those students who have exceptionally high achievement or potential and a high degree of interest in a specific field of study.
5. "Visual or performing arts ability" refers to students who demonstrate or indicate potential for outstanding aesthetic production or creativity in areas such as art, dance, music, drama, and media production.

"Program budget" is a budget consisting of a listing of the estimated direct program expenditures, by function and object, that are necessary to accomplish the goals of the program in meeting the needs of identified students, along with a listing of the sources of revenue and, if necessary, the amounts of fund balance to be applied.
[**ARC 7433C**, IAB 12/27/23, effective 1/31/24]

281—59.3(257) Program plan. The program plan submitted by school districts will include the elements set forth in Iowa Code section 257.43.
[**ARC 7433C**, IAB 12/27/23, effective 1/31/24]

281—59.4(257) Responsibilities of school districts. A school district's program under this chapter shall meet the following criteria:

59.4(1) *Development of goals and objectives.* A school district will establish goals and objectives for the following:

a. Curriculum and instructional strategies.
b. Student outcomes.
c. Program management and administration.
d. Program development.

59.4(2) *Development of curriculum and instructional strategies.* The program of instruction will consist of content and teaching strategies that reflect the accelerative pace, intellectual processes and creative abilities that characterize gifted and talented students. A linkage among the selection of students, the anticipated student outcomes and the special instructional programs will be evident. Learning activities

will provide for the development of skills that are beyond the scope of the regular classroom, introduce advanced concepts and contents, and offer students a greater latitude of inquiry than would be possible without the specialized instructional program. Specialized instructional activities are those not ordinarily found in the regular school program and may include the following:

a. A special curriculum supplementing the regular curriculum, using a high level of cognitive and affective concepts and processes.

b. Flexible instructional arrangements, such as special classes, seminars, resource rooms, independent study, student internships, mentorships, research field trips, and research centers.

59.4(3) *Student enrollment.* Students will be involved in a gifted and talented program for a sufficient portion of the regularly scheduled school time to ensure that projected student outcomes are likely to be achieved.

59.4(4) *Personalized education plan.* Best practice dictates that the services provided for each student placed in a gifted and talented program be contained in a written, personalized gifted and talented plan. Personalized education plans should be in writing and reviewed at periodic intervals in accordance with the changing needs of the student. The following items are suggested for inclusion in a student's personalized education plan, but this is neither a mandatory nor an exhaustive list:

a. Relevant background data, assessment of present needs and projections for future needs. Relevant information may include the student's leadership ability, interest inventories, learning characteristics, and learning goals.

b. The nature and extent of the gifted and talented services provided to the student, including indirect services, such as consultative services or other supportive assistance provided to a regular classroom teacher. Other services may include modifications to curriculum and acceleration of the student's curriculum.

c. Personnel responsible for the services provided to the student, as well as those responsible for monitoring and evaluating the student's progress.

59.4(5) *Student identification criteria and procedures.* Students will be placed in a gifted and talented program in accordance with systematic and uniform identification procedures that encompass all grade levels and that are characterized by the following:

a. Identification will be for the purpose of determining the appropriateness of placement in a gifted and talented program, rather than for categorically labeling a student.

b. The decision to provide a student with a gifted and talented program will be based on a comprehensive appraisal of the student, consideration of the nature of the available gifted and talented program and an assessment of actual and potential opportunities within the student's regular school program.

c. Multiple criteria will be used in identifying a student, with no single criteria eliminating a student from participation. Criteria will combine subjective and objective data, including data with direct relevance to program goals, objectives and activities.

d. In the event that the number of eligible students exceeds the available openings, participants will be selected according to the extent to which they can benefit from the program.

e. Each identified student's progress will be reviewed at least annually to consider modifications in program or student placement.

59.4(6) *Evaluation.* The school district will give attention to the following in its evaluation design:

a. Evaluation of gifted and talented programs will be for the purpose of measuring program effects and providing information for program improvement.

b. Evaluation should be conducted for each program level where objectives have been established.

c. Both cognitive and affective components of student development should be evaluated.

d. Evaluation findings should report results based on actual accomplishments by the gifted and talented students or their teachers, which are a direct result of the project, program, or activity.

59.4(7) *Staff utilization plan.* Staff will be deployed to ensure quality gifted and talented programs by employing the following procedures:

a. A designated staff person will be responsible for the overall program coordination throughout the school district.

b. The teaching staff of the gifted and talented program should work with the regular classroom teachers to assess, plan, carry out instruction, and evaluate outcomes.

c. Coordination time will be made available to staff providing gifted and talented programs to allow staff to perform professional responsibilities.

59.4(8) *Staff professional development.* Periodic professional development will be offered for all classroom teachers to maintain and update understandings and skills about individualizing programs for identified gifted and talented students. A staff development plan for personnel responsible for gifted and talented programs will be provided and will be based upon the assessed needs of the gifted and talented instructional and supervisory personnel.

59.4(9) *Qualifications of personnel.* Instructional personnel providing programs for gifted and talented students should have preservice or in-service preparation in gifted and talented education that is commensurate with the extent of their involvement in the gifted and talented program. The gifted and talented program teacher-coordinator will hold an endorsement allowing the holder to serve as a teacher or a coordinator of programs for gifted and talented students from the prekindergarten level through grade 12.

59.4(10) *Fiscal and accountability principles.*

a. When programs are jointly provided by two or more school districts or by a school district in cooperation with another educational agency, the budget will specify how each cooperating school district or agency will determine the portion of the program costs to be provided by each school district or agency and will provide a budget that specifies the contribution of each school district or agency.

b. Gifted and talented categorical funding will be used only for expenditures directly related to providing the gifted and talented program described in the program plan. Appropriate expenditures, inappropriate expenditures, and financial management provisions are set forth in 281—Chapter 98.

c. School districts will include and identify the detail of financial transactions related to gifted and talented resources, expenditures, and carryforward balances on their certified annual report, using the account coding appropriate to the gifted and talented program as defined by Uniform Financial Accounting for Iowa LEAs and AEAs, as effective on January 31, 2024. Each school district will certify its certified annual report following the close of the fiscal year but no later than September 15.

[**ARC 7433C**, IAB 12/27/23, effective 1/31/24]

281—59.5(257) Responsibilities of area education agencies.

59.5(1) When a written request is received from one or more local school boards, an area education agency will establish and operate a gifted and talented children advisory council under Iowa Code sections 257.48 and 257.49.

59.5(2) Staff of the area education agency will cooperate with school districts in the identification and placement of gifted and talented students. Cooperation may include:

a. Assisting local school district personnel in the interpretation of available student data.

b. Assistance in the development of the identification plan.

c. Providing for psychological testing in individual cases when available data contains significant inconsistencies or in other circumstances when additional data may be necessary for determining the appropriateness of the student placement.

[**ARC 7433C**, IAB 12/27/23, effective 1/31/24]

281—59.6(257) Responsibilities of the department. The department will review documentation submitted by school districts and area education agencies regarding the school districts' and area education agencies' gifted and talented programs and financial transactions. The department may request that the staff of the auditor of state conduct an independent program audit to verify that the gifted and talented programs conform to a school district's program plans. The department will provide technical assistance to school districts and to area education agencies in the development of gifted and talented programs.

[**ARC 7433C**, IAB 12/27/23, effective 1/31/24]

These rules are intended to implement Iowa Code sections 257.42 through 257.49.

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CHAPTER 60
PROGRAMS FOR STUDENTS WHO ARE ENGLISH LEARNERS

[Prior to 9/7/88, see Public Instruction Department[670] Ch 57]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/31/29

281—60.1(280) Definitions. As used in these rules, the following definitions apply:

"Bilingual instruction" refers to a program of instruction in English and the native language of the student designed to enable students to become proficient in English and in academic content areas at an age- and grade-appropriate level.

"Educational and instructional model" means an instructional model, strategy, method, or skill that provides a framework of instructional approaches to guide decision making about teaching and learning. Based on the needs of particular students, "educational and instructional model" may include a specific set of instructional services or a fully developed curriculum or other supplementary services.

"English as a second language" refers to a structured language acquisition program designed to teach English to students whose native language is other than English, until the student demonstrates a functional ability to speak, read, write, and listen to English language at the age- and grade-appropriate level.

"English learner" means the same as defined in Iowa Code section 280.4(1)*"b."*

"Fully English proficient" means the same as defined in Iowa Code section 280.4(1)*"b."*

"Intensive student" means the same as defined in Iowa Code section 280.4(1)*"b."*

"Intermediate student" means the same as defined in Iowa Code section 280.4(1)*"b."*

"Research-based" means based on a body of research showing that the educational and instructional model, or other educational practice, has a high likelihood of improving teaching and learning. To determine whether research meets this standard for purposes of this chapter, research reports are reviewed for the following:

1. The specific population studied;
2. Research that involves the application of rigorous, systematic, and objective procedures to obtain reliable results and provide a basis for valid inferences relevant to education activities and programs;
3. Whether the research employs systematic, empirical methods that draw on observation or experiment;
4. Reliance on measurement or observational methods that provide reliable and valid data;
5. Inclusion of rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions or inferences drawn;
6. Description of the magnitude of the impact on student learning results; and
7. Inclusion of the level of the review of the study.

[**ARC 7424C**, IAB 12/27/23, effective 1/31/24]

281—60.2(280) School district responsibilities.

60.2(1) *Student identification and assessment.* A school district shall use the following criteria in determining a student's eligibility:

a. To determine the necessity of conducting an English language assessment, the district includes a home language survey as part of the registration process. If the answers to the home language survey indicate the prominent use of another language in the home, the student is assessed by the district using the state-approved English language proficiency screener assessment to determine eligibility for language development services. A student scoring proficient is not eligible for services. If a student does not score proficient on the screener assessment, the student is determined to be an English learner.

b. The student is assessed annually on the state's approved summative English language proficiency assessment aligned to the state's English language proficiency standards in order to determine progress and attainment of English. A consistent plan of evaluation that includes ongoing evaluation of student progress will be developed and implemented by the district for each student so identified.

60.2(2) *Staffing.* Teachers in an English as a second language (ESL) program will possess a valid Iowa teaching license and an ESL endorsement.

60.2(3) *English learner placement.* Placement of students identified as English learners will be in accordance with the following:

a. Content classes. Students will be placed in classes with age-appropriate peers. Students will be provided instructional strategies to support content learning at all levels of language proficiency.

b. English learner program placement.

(1) Students enrolled in a program for English learners receive systematic English language instruction designed to allow meaningful access to the district's educational programs.

(2) When students of different age groups or educational levels are combined in the same class, the school ensures that the instruction given is appropriate to each student's level of educational attainment. Programs will be research-based and grounded in sound language acquisition theory.

(3) A program of bilingual instruction may include the participation of students whose native language is English.

(4) A student exits the English language development program upon scoring proficient on the state-approved annual summative English language proficiency assessment.

(5) All district instructional staff and area education agency (AEA) staff responsible for implementing the educational and instructional models defined in rule 281—60.1(280) receive such professional development as may be necessary to implement those educational and instructional models. Such professional development is delivered in accordance with 281—Chapter 83, including qualification of providers. In determining whether providers meet the standards in 281—Chapter 83, the following nonexhaustive factors may be considered, as they are relevant to the particular professional development to be provided:

1. ESL endorsement or equivalent;
2. Five years of ESL teaching experience; or
3. A graduate degree in teaching English to speakers of other languages or in a related field.

60.2(4) *Research-based educational and instructional models.* Districts will utilize research-based educational and instructional models as defined in rule 281—60.1(280) with English learners so that such students may acquire English proficiency and meet high academic standards.

[**ARC 7424C**, IAB 12/27/23, effective 1/31/24]

281—60.3(280) Department responsibility. The department of education will provide technical assistance to school districts, including advising and assisting schools in planning, implementation, and evaluation of programs for English learners.

[**ARC 7424C**, IAB 12/27/23, effective 1/31/24]

281—60.4(280) Nonpublic school participation.

60.4(1) *General.* A nonpublic school provides services under this chapter; however, the standard for services, if the nonpublic school does not receive services pursuant to subrule 60.4(2), is to make minor adjustments to curriculum and instruction.

60.4(2) *Public school services.* English as a second language and transitional bilingual programs offered by a public school district are available to students attending an accredited nonpublic school located within the district. The district obtains funding for such students in accordance with rule 281—60.5(280).

[**ARC 7424C**, IAB 12/27/23, effective 1/31/24]

281—60.5(280) Funding.

60.5(1) *Weighting.* Weighting for English learners is set forth in Iowa Code section 280.4(3). A student's eligibility for additional weighting is transferable to another district of residence.

60.5(2) *Supplemental aid or modified supplemental amount.* In addition to weighting, the school budget review committee (SBRC) may grant supplemental aid or a modified supplemental amount for an unusual need to continue funding beyond the five years of weighting or for costs in excess of the weighting to provide instruction to English learners above the costs of regular instruction.

a. A school district of residence may apply to the SBRC by the date specified in rule 289—6.3(257) for supplemental aid or a modified supplemental amount for an unusual need for funding beyond the amount generated from weighting for students identified as English learners who are provided instruction

beyond the regular instruction. The eligible supplemental aid or modified supplemental amount will be calculated as the total actual English learner program expenditures for the previous year, reduced by the English learner funding generated in the previous budget year based on the English learner count on the certified enrollment in the previous year, and reduced by any other grants, carryover, or other resources provided to the district for this program.

b. A district of residence may apply to the SBRC for supplemental aid or a modified supplemental amount for an unusual need to continue funding beyond the five years of weighting no later than December 1 following the date specified in Iowa Code section 257.6(1) for the certified enrollment. The supplemental aid or modified supplemental amount will be calculated by multiplying the number of resident students identified as English learners who are provided instruction beyond the regular instruction, and who are being served beyond the five years of weighting on the certified enrollment, by the weighting provided under subrule 60.5(1), multiplied by the district cost per pupil in the current year.

c. The SBRC will act on the requests described in paragraphs 60.5(2)*"a"* and *"b"* no later than its March regular meeting. If the SBRC grants the district's request for supplemental aid or a modified supplemental amount, the department of management will increase the district's budget authority by that amount.

The SBRC may require the district to appear at a hearing to discuss its request for supplemental aid or a modified supplemental amount.

60.5(3) *Use of funds.* English learner funding is categorical funding and follows the general provisions in 281—Chapter 98. Appropriate expenditures for the English learner program are those that are direct costs of providing instruction that supplement, but do not supplant, the costs of the regular curriculum. Appropriate and inappropriate expenditures are set forth in 281—Chapter 98.

60.5(4) *Annual reporting.* Districts will include and identify the detail of financial transactions related to English learner resources, expenditures, and carryforward balances on their certified annual report, using the account coding appropriate to the English learner program as defined by the Uniform Financial Accounting Manual for Iowa LEAs and AEAs, in effect on January 31, 2024. Each district submits its certified annual report following the close of the fiscal year but no later than September 15.

[**ARC 7424C**, IAB 12/27/23, effective 1/31/24]

These rules are intended to implement Iowa Code sections 256.7(31)*"c,"* 257.31(5)*"j"* and 280.4.

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CHAPTER 61
IOWA READING RESEARCH CENTER

Chapter rescission date pursuant to Iowa Code section 17A.7: 4/10/29

281—61.1(256) Establishment. There is established an Iowa reading research center (center). The director of the department of education will select a public education entity to serve as the host for the center. The director will give preference to a school district, an area education agency, or the joint area education agencies system. The selection of a host is to be for a specified period of time.
[**ARC 7660C**, IAB 3/6/24, effective 4/10/24]

281—61.2(256) Purpose. The center's purpose is set forth in Iowa Code section 256.9(49)*"c"*(1).
[**ARC 7660C**, IAB 3/6/24, effective 4/10/24]

281—61.3(256) Intensive summer literacy program. The center hereby establishes program criteria and guidelines for voluntary implementation of the program by school districts.

61.3(1) *Program criteria: summer reading programs pursuant to Iowa Code section 279.68.* Each district that chooses to implement a summer reading program as part of its implementation of Iowa Code section 279.68(2)*"a"*(6) is to comply with the terms of that section and 281—Chapter 62. A school district will employ appropriately licensed and supervised teachers and paraprofessionals, will monitor student progress, and is encouraged to use an evidence-based curriculum.

61.3(2) *Additional voluntary program criteria: intensive summer literacy program.* Each district's voluntary intensive summer literacy program is encouraged to meet, in addition to the terms of subrule 61.3(1), the following program criteria:

a. Criterion 1. Each district is encouraged to adopt instructional practices or programs that have some evidence of success and that include explicit and systematic instruction in foundational reading skills based on student need, consistent with Iowa Code section 279.68.

b. Criterion 2. Each district is to employ skilled, high-quality instructors. For the purposes of this paragraph, a district may hire or employ personnel directly, through an agreement with one or more other districts, through an agreement with one or more accredited nonpublic schools, through an agreement with one or more state agencies or governmental subdivisions, through an agreement with one or more private not-for-profit community agencies, or some combination thereof.

c. Criterion 3. Each district is encouraged to allow sufficient time for meaningful reading instruction and student learning.

d. Criterion 4. Each district is encouraged to provide instruction in small classes and small groups. To meet this criterion, a district is encouraged to employ the same instructional grouping formats described in the evidence-based intervention chosen. In the absence of specifications from the intervention chosen, a district is encouraged to ensure that it delivers whole-class instruction in class sizes of 15 or fewer students and that it delivers targeted intervention based on student need in small groups of 5 or fewer students.

e. Criterion 5. Each district is encouraged to monitor and promote student attendance.

f. Criterion 6. Each district is encouraged to evaluate student outcomes and the quality of program implementation, including implementation of these voluntary criteria.

g. Criterion 7. Each program is to be under the leadership and supervision of at least one appropriately licensed teacher and at least one appropriately licensed administrator. The two roles may be filled by the same individual. Nonlicensed personnel are to be supervised by an appropriately licensed teacher. It is encouraged that either the teacher or the administrator holds a reading (K-8) endorsement or a reading specialist endorsement.

h. Option to use private providers. A district may enter into an agreement with a private provider that uses evidence-based instructional strategies to provide summer literacy instruction under this chapter and 281—Chapter 62, at the election of a parent and in lieu of programming provided by the district. Any election under this paragraph is at the parent's sole cost.

61.3(3) *Guidelines for implementation by school districts.* The center is to:

a. Publish guidelines to assist school districts in applying the program criteria contained in subrule 61.3(1) and the voluntary criteria contained in subrule 61.3(2) and in improving the performance of intensive summer literacy programs.

b. Make such guidelines available on its website.

[**ARC 7660C**, IAB 3/6/24, effective 4/10/24]

281—61.4(256) Nature of the center's operation. The center's work is governed by the provisions of Iowa Code section 256.9(49)*"c"*(2). Annually, the center submits the report specified in Iowa Code section 256.9(49)*"c"*(3).

[**ARC 7660C**, IAB 3/6/24, effective 4/10/24]

281—61.5(256) Nature of the center's products.

61.5(1) *General.* The center's strategies, models, materials, and assessments, including the products referred to in subrule 61.6(3), are judged by and subject to the following requirements. To the extent possible, strategies, models, materials, and assessments, including the products referred to in subrule 61.6(3), shall:

a. Be research-based.

b. Contain evidence establishing that they are replicable by Iowa school districts, area education agencies, and accredited nonpublic schools.

c. Contain evidence establishing that they are capable of sustainable implementation.

d. Be widely and liberally distributed and used.

61.5(2) *Intellectual property.* Regardless of any intellectual property right that may accrue to the center, the department of education and each school district, area education agency, and accredited nonpublic school will have a perpetual, irrevocable, royalty-free, nonexclusive, nontransferable license to use any of the strategies, models, and materials produced by the center. Regardless of any intellectual property right that may accrue to the center, each school district, area education agency, accredited nonpublic school, and practitioner preparation program approved by the department of education has a perpetual, irrevocable, royalty-free, nonexclusive, nontransferable license to use any of the strategies, models, and materials produced by the center to provide training to current and prospective teachers and administrators.

[**ARC 7660C**, IAB 3/6/24, effective 4/10/24]

281—61.6(256) Governance and leadership of the center.

61.6(1) *Director and other personnel.* The center's director will be employed by the host referred to in rule 281—61.1(256). The director of the department of education or the director's designee, in consultation with the host and the advisory council, will select, determine the compensation of, and annually evaluate the director of the center.

a. Responsibilities of the director of the center will include the following:

(1) Enacting the priorities of the reading research center, as defined by the department;

(2) Achieving the Iowa reading research center's mission and purpose;

(3) Directing the center's budget;

(4) Managing the center's staff;

(5) Managing and overseeing the request for proposal (RFP) or contracting process or both to enact priorities of the center;

(6) Providing oversight and management of all contracts and projects initiated by the center;

(7) Establishing models for an intensive summer literacy program replicable in Iowa schools;

(8) Disseminating literacy research and its application; and

(9) Submitting required reports to the department and the general assembly.

b. The center may employ such other personnel as may be necessary to fulfill its responsibilities, upon approval of such positions by the director of the department of education.

61.6(2) *Advisory council.* When setting priorities for the center, the department of education seeks advice and assistance from an advisory council. The advisory council is to establish its bylaws and govern itself by the following paragraphs:

a. The advisory council will consist of representatives of the department, school districts, area education agencies, accredited nonpublic schools, institutions of higher education, organizations representing reading and literacy teachers, community-based nonprofit organizations that are focused on literacy, statewide literacy organizations, and parents. Members who offer other perspectives may be appointed. Members may serve in more than one role. Members are appointed by the director of the department of education or the director's designee. Actual expenses for members of the advisory council may be assumed by the center.

b. The advisory council will recommend and continually review center priorities, which are to be consistent with these rules. The advisory council annually will submit to the department a recommended set of projects and priorities for the reading research center.

c. The advisory council will provide input to the director of the department on the desired qualifications for the position of director of the center.

d. The advisory council will advise and assist the center in preparing the annual report as set out in rule 281—61.4(256).

e. The advisory council will foster collaboration across the Iowa reading research and evaluation community and will serve as a facilitator in identifying additional research needs and ways to apply research to practice in Iowa schools and communities.

f. The advisory council will assist the director of the center in reviewing proposals for quality, viability, and statewide impact.

g. Meetings of the advisory council are public meetings subject to Iowa Code chapter 21.

61.6(3) *Use of advisory council recommendations.* The department is to consider the priorities established by its advisory council in determining which projects or activities to direct the center to enact, consistent with these rules and with the center's funding.

61.6(4) *Contracts and awards.* In the furtherance of its work, the center may contract with other entities or may make awards by competitive bid. The rules in this chapter are incorporated by reference in any contract or award under this subrule. Any product produced pursuant to a contract or award is subject to these rules, including subrule 61.5(2).

[**ARC 7660C**, IAB 3/6/24, effective 4/10/24]

281—61.7(256) Financing of the center. The center will be financed in the following manner:

61.7(1) *Host as fiscal agent.* The host is the fiscal agent for the center.

61.7(2) *Public or private funds.* The host and the center may solicit and accept funds from public and private sources for the fulfillment of the mission and purpose of the center.

61.7(3) *Oversight by the department.* The department has oversight responsibilities for the financial operations of the center.

[**ARC 7660C**, IAB 3/6/24, effective 4/10/24]

These rules are intended to implement Iowa Code sections 256.7(31)*"b"* and 256.9(49)*"c."*

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CHAPTER 62
STATE STANDARDS FOR PROGRESSION IN READING

Chapter rescission date pursuant to Iowa Code section 17A.7: 5/22/29

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

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

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

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

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

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

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

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

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

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

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

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

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

[**ARC 7796C**, IAB 4/17/24, effective 5/22/24]

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

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

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

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

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

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

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

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

[**ARC 7796C**, IAB 4/17/24, effective 5/22/24]

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

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

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

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

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

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

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

[**ARC 7796C**, IAB 4/17/24, effective 5/22/24]

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

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

62.4(2) *Reading enhancement and acceleration development initiative.* The intensive instructional services described in subrule 62.4(1) will be provided to all students in kindergarten through grade three

who are identified as being persistently at risk in reading. The services will meet the specifications in the following paragraphs:

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

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

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

a. Assists students assessed as persistently at risk in reading to develop the skills to read at grade level. Assistance shall include but not be limited to strategies that formally address dyslexia, when appropriate. For purposes of this paragraph, "dyslexia" means a specific learning disability that is neurobiological in origin, is characterized by difficulties with accurate or fluent word recognition and by poor spelling and decoding abilities, and may include difficulties that typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction, as well as secondary consequences such as problems in reading comprehension and reduced reading experience that can impede growth of vocabulary and background knowledge.

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

c. Is supported by scientifically based research in reading.

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

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

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

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

h. Is implemented during regular school hours.

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

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

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

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

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

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

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

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

[**ARC 7796C**, IAB 4/17/24, effective 5/22/24]

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

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

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

[**ARC 7796C**, IAB 4/17/24, effective 5/22/24]

281—62.6(256,279) Miscellaneous provisions.

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

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

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

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

[**ARC 7796C**, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code section 279.68.

[Filed ARC 1331C (Notice ARC 1245C, IAB 12/11/13), IAB 2/19/14, effective 3/26/14]
[Filed ARC 2862C (Notice ARC 2762C, IAB 10/12/16), IAB 12/7/16, effective 1/11/17]
[Filed ARC 3291C (Notice ARC 3149C, IAB 7/5/17), IAB 8/30/17, effective 10/4/17]
[Filed ARC 5873C (Notice ARC 5663C, IAB 6/2/21), IAB 8/25/21, effective 9/29/21]
[Filed ARC 7796C (Notice ARC 7593C, IAB 2/7/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 63
EDUCATIONAL PROGRAMS AND SERVICES FOR PUPILS IN JUVENILE HOMES

[Prior to 9/7/88, see Public Instruction Department[670] Ch 42]

Chapter rescission date pursuant to Iowa Code section 17A.7: 5/22/29

281—63.1(282) Definitions.

63.1(1) Special programs cited in Iowa Code section 282.30 are referred to as juvenile shelter care homes and juvenile detention homes, and are referred to jointly as juvenile homes.

63.1(2) For purposes of this chapter, "school corporation" refers to school districts, state-approved charter schools, area education agencies (AEAs), and community colleges.

63.1(3) For purposes of this chapter, "aides" refers to aides and paraeducators as defined in Iowa Code section 256.157.

[**ARC 7797C**, IAB 4/17/24, effective 5/22/24]

281—63.2(282) Forms.

63.2(1) The department of education will provide forms, which may be electronic or web-based, to AEAs for submitting program and budget proposals and for submitting claims, which are due according to Iowa Code section 282.31(1)*"a."*

63.2(2) The department of education will also provide forms, which may be electronic or web-based, to AEAs for use by the juvenile homes requesting educational services, which are due according to the timelines in Iowa Code section 282.31*"b"*(2). An AEA is to file a budget amendment for a newly established juvenile home requesting educational services 90 days prior to the initial delivery of the educational services.

[**ARC 7797C**, IAB 4/17/24, effective 5/22/24]

281—63.3(282) Budget amendments. An AEA is to amend the budget during the fiscal year in which actual classrooms implemented are different than budgeted or there is a significant decrease or increase in the student membership that would change the number of teachers or aides necessary to support the average daily membership. An amendment is also necessary if actual expenditures vary significantly from expenditures that were budgeted. A significant variance in actual expenditures means that the amount of funding that would be reverted to or due from the state equals or exceeds 10 percent of the advance payments in the subsequent year prior to adjustments.

[**ARC 7797C**, IAB 4/17/24, effective 5/22/24]

281—63.4(282) Area education agency responsibility. An AEA shall provide or make provision for an appropriate educational program pursuant to Iowa Code section 282.30(1)*"a."* The provision of the educational program is to be pursuant to a written agreement that identifies the responsibilities of the AEA, juvenile home, and any other agency with which the AEA contracts to provide the educational program.

[**ARC 7797C**, IAB 4/17/24, effective 5/22/24]

281—63.5(282) Educational program.

63.5(1) *Methods of program provision.* The AEA will provide the educational program by a manner specified by Iowa Code section 282.30(1)*"b,"* by enrolling the child in the educational program provided in the juvenile home, or by another delivery method with the approval of the department of education.

In accordance with Iowa Code section 273.2, an AEA will contract, whenever practicable, with other school corporations for the use of personnel, buildings, facilities, supplies, equipment, programs, and services.

63.5(2) *Final determination.* In the absence of a decision of a court regarding a child's educational placement, the AEA where the child is living will make the final determination regarding the provision of the appropriate educational program for the child, in consultation with the district of residence of the child and with the juvenile home. In making this determination, consideration will be given to:

a. A preference for continuance of the child's educational program that was in place prior to the child's placement in the home. For students in custody of the state's child welfare agency, school stability and the student's ability to remain in his or her school of origin will be prioritized to the maximum extent appropriate consistent with the child's best interest.

b. Placement into the least restrictive environment.

c. Development of a plan for future educational programming.

d. The provisions of the court order if the child was placed in the facility by a court.

e. Factors including, but not limited to, the child's emotional or physical state, the child's safety and the safety of others, the child's identified or assessed academic abilities, and the projected duration of stay in the home.

63.5(3) *Cooperation with area education agency.* The AEA of the child's district of residence, the school district of residence, the school district in which the home is located, other AEAs, the juvenile home and other appropriate agencies involved with the care or placement of the child will cooperate pursuant to Iowa Code section 282.30(2).

63.5(4) *Summer school programs.* Summer school programs, as distinguished from extended year programming, may be operated pursuant to Iowa Code section 282.31(5) and are considered as separate programs in each home. The fiscal year for a juvenile home program is from July 1 through June 30. Program and budget proposals submitted to the department of education prior to January 1, pursuant to Iowa Code section 282.31, may include requests for summer school programs, or portions of summer school programs, commencing July 1 of the subsequent fiscal year and summer school programs, or portions of summer school programs, ending June 30 of the subsequent fiscal year.

[**ARC 7797C**, IAB 4/17/24, effective 5/22/24]

281—63.6(282) Special education. The AEA will establish policies and procedures for screening and evaluating students living in juvenile homes who may need special education.

63.6(1) *Assignment.* A diagnostic-educational team will be assigned by the AEA in which each program is located. This diagnostic-educational team includes individuals who are appropriately qualified to conduct special education evaluations and to assist in planning programs for students who are provided a special education program pursuant to an individualized education program (IEP).

63.6(2) *Duties.* The duties of this diagnostic-educational team include the screening of all students for potential special education needs, identifying children in need of special education, providing needed special education support services and assisting in the implementation of needed special education programs.

63.6(3) *Role of director of special education.* It is the responsibility of the AEA director of special education to ensure that all procedures related to due process, protection in evaluation, least restrictive environment, development of individual educational programs and other provisions of 281—Chapter 41 are adhered to for students provided a special education program pursuant to an IEP who are served in juvenile homes. In addition, the director is responsible for coordinating the activities of the special education program with other programs and services provided.

[**ARC 7797C**, IAB 4/17/24, effective 5/22/24]

281—63.7(282) Other AEA services.

63.7(1) *Educational services.* Personnel from the educational services division of the local AEA will be made available to each program. Personnel will assist with curriculum development as well as provide all other services that are made available to local education agencies within the particular AEA.

63.7(2) *Media services.* Personnel from the media services division of the local AEA will be made available to each program. All services that are made available to local education agencies within the particular AEA are to be made available to these programs and students.

63.7(3) *Other responsibilities.* In addition to the above-mentioned responsibilities, AEA personnel will assist with coordination of program curricula with the curricula of the local district in which the home is located and with the transition of students from these programs to subsequent program placement. This coordination includes the establishment of procedures for ensuring that appropriate credit is available to the students while participating in the program.

[**ARC 7797C**, IAB 4/17/24, effective 5/22/24]

281—63.8(282) Curriculum. Each program will use the minimum curriculum requirements for approved or accredited schools as a guide to developing specific content for each student's educational program. The content of each student's program is to be sufficient to enable the student to earn credit while participating in the program.
[**ARC 7797C**, IAB 4/17/24, effective 5/22/24]

281—63.9(282) Disaster procedures. Each home will maintain a written plan containing emergency and disaster procedures that are clearly communicated to and periodically reviewed with staff.
[**ARC 7797C**, IAB 4/17/24, effective 5/22/24]

281—63.10(282) Maximum class size.

63.10(1) Maximum class size in shelter care homes. The following maximum class size-to-staff ratio will be used in shelter care homes:

Average Daily Membership	Full-Time Teacher	Educational Aide(s)
10 or fewer	1	1 aide
More than 10 through 20	2	1 aide with more than 10 but fewer than 15 students 2 aides with 15 through 20 students
More than 20 through 30	3	2 aides with more than 20 but fewer than 25 students 3 aides with 25 through 30 students

63.10(2) Maximum class size in detention homes. The class size-to-staff ratio used in detention homes will be the same as that defined in subrule 63.10(1) unless the needs of the students in the class require a lesser ratio. If the needs of students in the class require a lesser ratio, it will be no greater than the following class size-to-staff ratio:

Average Daily Membership	Full-Time Teacher	Educational Aide(s)
Fewer than 10	1	1 aide with 5 or fewer students 2 aides with more than 5 students
10 through 20	2	2 aides with fewer than 15 students 3 aides with 15 through 20 students
More than 20 through 30	3	3 aides with fewer than 25 students 4 aides with 25 through 30 students

Support for this staffing ratio is to be provided with the juvenile home budget proposals and with the juvenile home claims.

63.10(3) When a classroom is located in an off-site facility, a full-time educational aide may be assigned for each off-site classroom in addition to the number allowed in subrule 63.10(1) or 63.10(2).

63.10(4) The department of education may waive subrules 63.10(1), 63.10(2), and 63.10(3) if student characteristics such as the age range of students in the home or the percentage of students in the home involved in adult criminal proceedings necessitate a different class size-to-staff ratio. Any variance from the maximum prescribed class size-to-staff ratio must be approved by the department of education on an annual basis. Support for the waiver request is to be provided with the juvenile home budget proposals and with the juvenile home claims.

63.10(5) Average daily membership for determining class size in subrules 63.10(1) to 63.10(4) for the juvenile home budget proposals is based on the actual average daily membership from the year previous to

the base year, average daily membership to date in the base year, and factors known at the time of the budget proposals that would impact the average daily membership in the budget year.

63.10(6) If the number of teachers and aides as determined in subrules 63.10(1), 63.10(2), and 63.10(3) was appropriately estimated for the juvenile home budget proposal and was approved by the department of education, and the actual number of teachers or aides is determined to be in excess of maximum class sizes based on the actual average daily membership of students on the juvenile home claims, the department of education may waive subrule 63.10(1), 63.10(2), or 63.10(3).

63.10(7) If the educational program at any one juvenile home is provided in more than one classroom location and using multiple classroom locations results in a different number of teachers and aides than would have been allowed if the students were in one classroom, the department of education may waive subrules 63.10(1) and 63.10(2). Support for the waiver request is to be provided with the juvenile home budget proposals annually.

63.10(8) The AEA will develop policies and procedures to monitor and ensure that the educational program is provided sufficient instructional staff.

[**ARC 7797C**, IAB 4/17/24, effective 5/22/24]

281—63.11(282) Teacher certification and preparation.

63.11(1) *Certification.* At least one teacher who is assigned to these programs shall hold Iowa certification for Instructional Strategist I or II, or both, as appropriate to the grade level and needs of the students served.

63.11(2) *In-service.* Each teacher is to be provided appropriate in-service education opportunities annually in areas defined through needs assessments.

[**ARC 7797C**, IAB 4/17/24, effective 5/22/24]

281—63.12(282) Aides. Educational aides will be provided preservice and in-service opportunities consistent with duties to be performed and work under the direct supervision of the teacher.

[**ARC 7797C**, IAB 4/17/24, effective 5/22/24]

281—63.13(282) Accounting. Revenues, expenditures, and balances of the juvenile home programs will be accounted for in the manner provided in Uniform Financial Accounting for Iowa LEAs and AEAs, in effect on February 7, 2024, except as otherwise noted in these rules.

63.13(1) *Fund.* Juvenile home instructional programs will be accounted for in a special revenue fund. The fund balances are to be maintained in the special revenue fund at year-end, and the continuance or disposition of positive or negative fund balances will be determined by the department of education.

63.13(2) *Tuition.* Tuition paid or received will be calculated as follows:

a. If juvenile home students not requiring special education attend a local school district, other than the district of residence, tuition is to be calculated in the manner prescribed in Iowa Code section 282.24 for determining tuition costs for any nonresident student attending a local school district. In lieu of paying tuition to the local school district for these students, the AEA may request the local school district to account for these students through the foster care facility claim process.

b. Tuition for students provided a special education program pursuant to an IEP will be paid by the district of residence, in accordance with the rules of special education and pursuant to Iowa Code chapter 282, to the district in which the juvenile home is located or to the AEA, whichever is providing the special education. The district in which the juvenile home is located or the AEA, whichever is providing the special education, will notify the district of residence if the child was being served on the third Friday in September by the district in which the home is located or by the AEA. The district in which the juvenile home is located or the AEA, whichever is providing the special education, will also notify the district of residence if the child was being served on December 1 by the district in which the home is located or by the AEA.

[**ARC 7797C**, IAB 4/17/24, effective 5/22/24]

281—63.14(282) Revenues. Revenues include:

1. Funding received pursuant to Iowa Code section 282.31,

2. Tuition revenue from the district of residence or agency in another state for educational services provided for out-of-state students,

3. Tuition revenue from the district of residence for educational services for students provided a special education program pursuant to an IEP, and

4. Other miscellaneous funding received or accrued for the purpose of operating the juvenile home instructional programs.

[**ARC 7797C**, IAB 4/17/24, effective 5/22/24]

281—63.15(282) Expenditures. Expenditures may include actual instructional expenditures, student support services expenditures, instructional staff support services expenditures, administrative support services, operations and maintenance of plant services, student transportation services, and interfund transfers for indirect costs. Supplies and equipment necessary to provide the educational program will be equivalent to those provided to a comparable number of students by the district in which the juvenile home is located. Classroom space is to be adequate for the number and needs of children in the juvenile home instructional program.

63.15(1) *Instructional expenditures.* Instructional expenditures include:

a. Salaries and employee benefits of employees providing instructional services. Included are teachers, substitutes, other instructional personnel, and aides.

b. Purchased services, supplies, and equipment, which are customarily considered instructional expenditures.

c. Intrafund transfers.

d. The department of education will annually determine the maximum amount that may be expended on instructional expenditures. Total expenditures for instructional services for each continuing classroom, other than salary and employee benefits, that are not provided pursuant to an IEP will not exceed 10 percent of the state average expenditure on instructional salaries and employee benefits in the juvenile home program in the year prior to the base year. New classrooms in the first year of operation will not exceed twice the maximum amount calculated.

63.15(2) *Student and instructional staff support services and student transportation services expenditures.* Among the services included in these categories are guidance services, transportation services, curriculum development, and library and instructional technology. Expenditures may include salaries, employee benefits, purchased services, supplies, equipment, and intrafund transfers.

63.15(3) *Administrative support services, operation and maintenance of plant services, and interfund transfers.* Administrative support services, operation and maintenance of plant services and interfund transfer expenditures may include:

a. Intrafund transfers and actual costs of general administration services provided to the juvenile home program. Expenditures for general administrative costs will correspond to the amount of the administrator's time assigned and provided to the juvenile home program.

b. Intrafund transfers and actual costs of division administrative services provided to the juvenile home program. Expenditures for division administrative costs will correspond to the amount of the administrator's time assigned and provided to the juvenile home program.

c. Expenditures for the administrative services of administrative staff assigned directly to the juvenile home program.

d. Expenditures for business administration services provided to the juvenile home program. The juvenile home program may be charged for costs of providing business administration services. If the juvenile home program is charged for providing business administration services, the amount is to be either actual costs or the amount determined by using the restricted indirect cost rate applied to allowable juvenile home program expenditures.

e. The total of all expenditures for administrative services is to be no greater than the actual cost determined by the AEA's accounting records or 10 percent of the total expenditures in the juvenile home program, whichever is less.

f. Expenditures for operation and maintenance of plant services except as provided in subrule 63.15(4).

g. The total of all expenditures for administrative services and for operation and maintenance of plant services is to be no greater than the actual cost determined by the AEA's cost accounting system or 20 percent of the total expenditures in the juvenile home program, whichever is less.

63.15(4) *Unauthorized expenditures.* Expenditures do not include expenditures for debt services, for facilities acquisition and construction services including remodeling and facility repair, or for rental expenditures for classroom facilities when adequate space is available at the juvenile home or AEA.

63.15(5) *Charges for AEA services.* As provided by rule 281—63.6(282), subrule 63.7(1), or subrule 63.7(2), juvenile home students will have available to them special education support services, educational services, and media services comparable to those services made available to other students in the AEA; however, expenditures for these services are inherent costs to the respective AEA programs and are not to be assessed to the juvenile home educational program.

[**ARC 7797C**, IAB 4/17/24, effective 5/22/24]

281—63.16(282) Claims. AEAs will submit program and budget proposals and claims consolidating all juvenile home education programs within each AEA. Certain program information may be required for each separate juvenile home.

63.16(1) The number of classrooms being provided by each AEA is to be reported on the budget proposals and claims. The number is to be expressed in terms of full-time equivalent (FTE) classrooms. One FTE represents a full-time teacher providing a program during the normal school year. One-tenth FTE will be added for each month of summer school taught on a daily full-time basis. A full school year and three months of summer school is calculated as 1.3 FTE.

63.16(2) Each teacher will keep a daily register pursuant to Iowa Code section 294.4.

63.16(3) The average daily membership of students of school age living in juvenile homes who are being provided an educational program will be reported on the budget proposals and claims. "Average daily membership (ADM)" means the average obtained by dividing the total of the aggregate days of attendance plus the aggregate days of absence by the total number of student contact days. Student contact days are the days during which the educational program is provided and students are under the guidance and instruction of the instructional professional staff. "Aggregate days" means the sum of the number of days of attendance and days of absence for all pupils who are enrolled during the school year. A student is considered enrolled after being placed in a juvenile home and taking part in the educational program. A student is considered to be in membership from the date of enrollment until the date of leaving the juvenile home or receiving a high school diploma or its equivalent, whichever occurs first. ADM will be calculated on the regular school year exclusive of summer session. School age is defined pursuant to Iowa Code chapter 282.

[**ARC 7797C**, IAB 4/17/24, effective 5/22/24]

281—63.17(282) Audits. AEAs will make the records related to providing educational services for juvenile homes available to independent auditors, state auditors and department of education staff on request.

[**ARC 7797C**, IAB 4/17/24, effective 5/22/24]

281—63.18(282) Waivers. A waiver may be requested by an AEA that presents evidence of a need for a different configuration of expenditures under paragraph 63.15(1)*"d,"* 63.15(3)*"a,"* 63.15(3)*"b,"* 63.15(3)*"e,"* or 63.15(3)*"g,"* or subrule 63.15(4) or 63.15(5). The AEA may annually request the waiver and will include the waiver request and the evidence specified by this rule with the program and budget proposal or budget amendment submitted pursuant to rule 281—63.2(282) or 281—63.3(282). An approved waiver related to rent payment to the juvenile home does not necessitate an annual waiver request except in any year that the rental contract terms change from the rental contract terms in the previous year.

63.18(1) If the department denies a waiver request, the AEA that was denied may request within ten days of notification of the denial that the director of the department of education review the denial of the waiver request.

63.18(2) It is the intent of the department of education to waive provisions of this chapter only when it is determined that they would result in unequal treatment of the AEAs or cause an undue hardship to the requesting AEA and the waiver clearly is in the public interest.

[**ARC 7797C**, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code sections 282.30 and 282.31.

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[1] Effective date of 63.18(4) delayed 70 days by the Administrative Rules Review Committee at its meeting held March 10, 2000; delay lifted by the Committee at its meeting held April 7, 2000, effective April 8, 2000.

CHAPTER 64
CHILD DEVELOPMENT COORDINATING COUNCIL

Chapter rescission date pursuant to Iowa Code section 17A.7: 5/22/29

281—64.1(256A,279) Purpose. These rules structure the child development coordinating council and set forth its operating procedures.
[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

281—64.2(256A,279) Definitions applicable to this chapter.
"Council" means the child development coordinating council.
"Department" means the department of education.
"Grantee" means the applicant designated to a grant under this chapter.
"Parent" means biological, adoptive, surrogate, or foster parent, or guardian.
[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

281—64.3(256A,279) Child development coordinating council. The council members are set forth in Iowa Code section 256A.2. The Iowa resident parent will be chosen by the Iowa Head Start Association.
[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

281—64.4(256A,279) Procedures.
64.4(1) A quorum consists of two-thirds of the voting members.
64.4(2) When a quorum is present, a position passes when approved by a majority of voting members.
64.4(3) The council will meet at least four times per year and may meet more often at the call of the chair or a majority of voting members.
64.4(4) The chairperson and vice-chair will be elected by the council for a term of two years. After the initial two-year term as vice-chair, the vice-chair will assume the role of chairperson for a term of two years.
[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

281—64.5(256A,279) Duties. The duties of the council are provided in Iowa Code sections 256A.3 and 279.51.
[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

281—64.6(256A,279) Application process. The council will advise the department to announce through public notice the opening of an application period for both Division I and Division II of this chapter.
[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

281—64.7(256A,279) Request for proposals. Applications for grants under either division of this chapter will be distributed by the department upon request. Proposals not containing the specified information or not received by the specified date will not be considered. All applications are to be submitted in accordance with instructions in the requests for proposals and are to be submitted to the department.
[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

281—64.8(256A,279) Notification of applicants. The council will advise the department to notify applicants of the decision to approve or disapprove the proposal within 45 days of the deadline for applications. Negotiations may be required. Successful applicants will be requested to have an official with vested authority sign a contract with the department.
[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

281—64.9(256A,279) Withdrawal of contract offer. If the applicant and the department are unable to successfully negotiate a contract, the council may withdraw the award offer.
[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

281—64.10(256A,279) Evaluation. The grantee will cooperate with the council and provide requested information to determine how well the goals and objectives of the project are being met.
[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

281—64.11(256A,279) Contract revisions and budget reversions. The grantee will immediately inform the department of any revisions in the project budget. The department and the grantee may negotiate a revision to the contract to allow for expansion or modification of services but will not increase the total amount of the grant. Grant funds unencumbered or unobligated at the conclusion of the program period revert to the department. The program period concludes at the end of the five-year grant cycle, if an annual renewal grant within the five-year grant cycle is not awarded, or at any time the grant is discontinued during the five-year grant cycle.
[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

281—64.12(256A,279) Termination for convenience. The contract may be terminated in whole or in part when both parties agree that the continuation of the project would not produce beneficial results commensurate with the future expenditure of funds. The parties will agree upon the termination conditions, including the effective date, and in the case of partial terminations, the portion to be terminated. The grantee shall not incur new obligations for the terminated portion after the effective date, and cancel as many outstanding obligations as possible.
[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

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

The department will administer the grants under this chapter contingent upon funding availability. If there is a lack of funds necessary to fulfill the fiscal responsibility of the child development grants and the public school grants, the contracts will be terminated or renegotiated. The department may terminate or renegotiate a contract upon 30 days' notice when there is a reduction of funds by executive order.
[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

281—64.14(256A,279) Responsibility of grantee at termination. Within 45 days of the termination, the grantee will supply the department with a financial statement detailing all costs up to the effective date of the termination. If the grantee expends money for other than specified budget items approved by the council, the grantee will return moneys for unapproved expenditures.
[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

281—64.15(256A,279) Appeal from terminations. Any agency or public school aggrieved by a termination of a contract for cause pursuant to rule 281—64.13(256A,279) may appeal the decision to the director of the department in writing within 30 days of the decision to terminate. The hearing procedures found at 281—Chapter 6 apply to appeals of terminated grantees, except that the rules on consolidation, severance, waiver of proceedings, and manner of hearing do not apply.

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

The director will issue a decision within a reasonable time, not to exceed 120 days from the date of the hearing.
[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

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

1. The appeal is untimely;
2. The appellant lacks standing to appeal;
3. The appeal is not in the proper form or is based upon frivolous grounds;

4. The appeal is moot because the issues raised in the notice of appeal or at the hearing have been settled by the parties;

5. The termination of the grant was beyond the control of the department because it was due to lack of funds available for the contract.

[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

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

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

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

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

[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

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

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

[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

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

[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

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

281—64.20(256A,279) Definitions.

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

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

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

"Quality educational support services" means educational support services that have a qualified or trained staff to provide a program which meets the needs of parents through the use of a validated curriculum or which is based on a model project which has proven successful in another state or location.
[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

281—64.21(256A,279) Eligibility identification procedures. In a year in which funds are made available by the Iowa legislature, the council will award grants to applicants for the provision of educational support services to parents of children aged birth through five years who are at risk, with priority to applicants that serve parents of children aged birth through three years who are at risk. Funds will be made available on a competitive basis to schools or nonprofit agencies demonstrating an ability to provide quality educational support services to parents of children aged birth through five years who are at risk. Competitive grants will be awarded with a renewal option for up to five years contingent upon the awardee's meeting program requirements. If program requirements are not met, the council will advise the department to discontinue grant funding at the start of the following fiscal year.
[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

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

Parents having one or more children aged birth through five years who meet the current income eligibility guidelines for free and reduced price meals under the child nutrition program.
[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

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

1. Children who are abused.
2. Children functioning below chronological age in two or more developmental areas, one of which may be English proficiency, as determined by an appropriate professional.
3. Children born with one or more factors that are established as high risk for developmental delay, such as very low birth weight (under 1,500 grams—approximately three pounds) or with conditions such as spina bifida, Down syndrome, or other genetic disorders.
4. Children born to a parent who was under the age of 18.
5. Children residing in a household where one or more of the parents or guardians:

- Has not completed high school;
- Has a substance use disorder;
- Has a chronic mental illness;
- Is incarcerated;
- Has low literacy skills;
- Has a history of child or spouse abuse; or
- Is an English learner.

6. Children having other special circumstances, such as foster care or being homeless.

[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

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

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

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

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

a. Documentation of a need for this project.

b. Justification of how this project will utilize services from other agencies and how this project will supplement services to the eligible population.

c. Identification of the curriculum to be used or the model to be replicated.

d. Demonstration that persons qualified to administer these educational support services to parents will be employed.

[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

281—64.25(256A,279) Award contracts.

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

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

[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

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

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

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

[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

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

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

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

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

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

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

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

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

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

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

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

[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

281—64.28(256A,279) Eligibility identification procedures. In a year in which funds are made available by the Iowa legislature, the council will grant awards on a competitive basis to child development programs for three- and four-year-old children who are at risk and public school child development programs for three-, four-, and five-year-old children who are at risk. Competitive grants will be awarded with a renewal option for up to five years when grantees meet program requirements. If program requirements are not met, the council will advise the department to discontinue grant funding at the start of the following fiscal year.
[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

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

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

a. Children reaching three or four years of age on or before September 15 of the contract year; and

b. Members of a low-income family.

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

a. Children reaching three, four, or five years of age on or before September 15 of the contract year; and

b. Members of a low-income family.

64.29(3) *Enrollment criteria.* Applicants are to document the number of children enrolled under primary eligibility and the criteria used for enrollment.
[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

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

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

a. Is functioning below chronological age in two or more developmental areas, one of which may be English proficiency, as determined by an appropriate professional;

b. Was born with one or more factors that are established as high risk for developmental delay, such as very low birth weight (under 1,500 grams—approximately three pounds) or with conditions such as spina bifida, Down syndrome, or other genetic disorders;

c. Was born to a parent who was under the age of 18;

d. Resides in a household where one or more of the parents or guardians:

(1) Has not completed high school;

(2) Has a substance use disorder;

(3) Has a chronic mental illness;

(4) Has low literacy skills;

(5) Is incarcerated; or

(6) Has a history of child or spousal abuse; or

e. Has other special circumstances, such as foster care or being homeless.

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

64.30(2) *Enrollment criteria.* Applicants are to document the number of children enrolled under secondary eligibility and the criteria used for enrollment.
[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

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

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

a. Provision of a comprehensive child development program.

b. Limited class size.

c. Child-teacher ratios of not less than one staff member per eight children.

d. Provision of parental involvement.

e. Demonstration of community support.

f. Utilization of services provided by other community agencies.

g. Use of qualified teachers.

h. Existence of a plan for program evaluation including, but not limited to, measurement of student outcomes.

i. Developmentally appropriate practices.

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

a. Program summary.

b. Research documentation.

c. Identification and documentation of local populations who are at risk.

d. Letters of community support.

e. Program budget (administrative costs not to exceed 10 percent of total award).

[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

281—64.32(256A,279) Grant process.

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

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

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

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

[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

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

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

a. Information on children and families served.

b. Direct services provided to children.

c. Record of budget, including expenditures. Grant funding is to support direct services to children to the fullest extent possible. Administrative costs under these programs is limited to 10 percent of the total award.

d. Other appropriate information specified by the council necessary to the overall evaluation.

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

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

64.33(3) Programs in renewal years.

a. Programs shall participate in the renewal process and maintain accreditation with the National Association for the Education of Young Children, the Iowa quality preschool program standards and criteria, or other approved program standards as determined by the department. Programs unable to maintain accreditation may apply for a waiver of accreditation within 30 days of the change in accreditation

status. Waivers are awarded at the discretion of the council. Programs that do not maintain accreditation or that do not receive a waiver will not be funded.

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

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

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

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

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

[**ARC 7798C**, IAB 4/17/24, effective 5/22/24]

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

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CHAPTER 65
PROGRAMS FOR AT-RISK EARLY ELEMENTARY STUDENTS

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/31/29

281—65.1(279) Definitions.

"At-risk student" means, for purposes of this chapter, a student in early elementary grades who is eligible for free or reduced price meals.

"Awardee" means a public school district designated to receive the at-risk early elementary school award funds for buildings serving early elementary grades with a high percentage of at-risk students.

"Department" means the department of education.

"Early elementary grades" means kindergarten through grade three.

[**ARC 7429C**, IAB 12/27/23, effective 1/31/24]

281—65.2(279) Eligibility identification procedures. In a year in which funds are made available by the Iowa legislature, the department will grant awards to districts for buildings serving early elementary grades with a high percentage of at-risk students. Using a formula determined by the department and consistent with Iowa Code section 279.51(1)*"c,"* the department will distribute awards based on the number of early elementary students in the identified buildings serving a high percentage of at-risk students.

[**ARC 7429C**, IAB 12/27/23, effective 1/31/24]

281—65.3(279) Award acceptance process. The department will notify eligible districts of the opportunity to be granted an award for a three-year cycle. A district will make formal acceptance using forms issued and procedures established by the department, and by an official with vested authority to approve the acceptance.

[**ARC 7429C**, IAB 12/27/23, effective 1/31/24]

281—65.4(279) Awardee responsibilities. Each year, the awardee will complete reports on forms provided by the department, including the following:

1. An initial report, including a proposed budget and expected outcomes.
2. An end-of-the-year report, including total expenditures and a statement of impact on expected outcomes.

[**ARC 7429C**, IAB 12/27/23, effective 1/31/24]

281—65.5(279) Allowable expenditures. School districts will provide, at a minimum, the activities set forth in Iowa Code section 279.51(1)*"c."* Additional allowable expenditures include salaries and benefits for teachers and paraeducators, and activities and materials to improve academic achievement. These funds are to be used for instruction, activities, and materials that are in addition to the regular school curricula for children participating in these programs, and only to be used in the building for which the award is made. Inappropriate uses of award funding include indirect costs or use charges, operational or maintenance costs, capital expenditures, student transportation other than that which is directly related to the activities and materials described in this rule, or administrative costs. Moneys received are subject to the general provisions described in 281—Chapter 98.

[**ARC 7429C**, IAB 12/27/23, effective 1/31/24]

281—65.6(279) Evaluation. The awardee will cooperate with the department and provide requested information to determine how well the outcomes in rule 281—65.4(279) are being met. Statewide leadership teams will review final reports and provide useful feedback about buildings to awardees. This feedback will include information about innovative components to building programs. Buildings demonstrating innovation will be given preference the following grant cycle.

[**ARC 7429C**, IAB 12/27/23, effective 1/31/24]

281—65.7(279) Budget revisions. The department may grant approval to an awardee for any revisions in the proposed budget in excess of 10 percent of a line item, provided the revisions do not increase the total amount of the award.

[**ARC 7429C**, IAB 12/27/23, effective 1/31/24]

281—65.8(279) Termination.

65.8(1) *Termination for convenience.* The award may be terminated, in whole or in part, upon agreement of both parties, concerning the termination conditions, the effective date, and in the case of partial termination, the portion to be terminated. The awardee shall cancel as many outstanding obligations as possible and not incur new obligations for the terminated portion after the effective date of termination.

65.8(2) *Termination for cause.*

a. The award may be terminated, in whole or in part, at any time before the date of completion, whenever the department determines, after notice and an opportunity to be heard, that the awardee has failed to comply substantially with the conditions of the award. The awardee will be notified in writing by the department of the reasons for the termination and the effective date. The awardee shall cancel as many outstanding obligations as possible and not incur new obligations for the terminated portion after the effective date of termination.

b. The department will administer the at-risk early elementary school awards contingent upon the availability of state funds. If there is a lack of funds necessary to fulfill the fiscal responsibility of the awards, the awards are to be terminated or renegotiated. The department may terminate or renegotiate an award upon 30 days' notice when there is a reduction of funds by executive order.

65.8(3) *Responsibility of awardee at termination.* Within 45 days of the effective date of award termination, the awardee will supply the department with a financial statement detailing all program expenditures up to the effective date of the termination. The awardee will be solely responsible for all expenditures after the effective date of termination.

[**ARC 7429C**, IAB 12/27/23, effective 1/31/24]

281—65.9(279) Appeals from terminations. Any awardee aggrieved by a unilateral termination of an award may appeal the decision to the director of the department in writing within 30 days of the decision to terminate.

65.9(1) *Form of appeal.* In the notice of appeal, the awardee will give a short and plain statement of the reason for the appeal.

65.9(2) *Appeal procedures.* The hearing procedures found at 281—Chapter 6 will apply to appeals of terminated awards. The director will issue a decision within a reasonable time, not to exceed 120 days from the date of hearing.

65.9(3) *Grounds for reversal.* Termination of an award under this chapter may be reversed only if the awardee proves the process was conducted outside of statutory authority; violated state or federal law, policy, or rule; did not provide adequate public notice; was altered without adequate public notice; or involved conflict of interest by staff or committee members.

65.9(4) *Mandatory denial of appeal.* In lieu of a decision on the merits of an appeal, the director of the department will deny an appeal if the director finds any of the following:

a. The appeal is untimely;

b. The appellant lacks standing to appeal;

c. The appeal is not in the necessary form or is based upon frivolous grounds;

d. The appeal is moot because the issues raised in the notice of appeal or at the hearing have been settled by the parties; or

e. The termination of the award was beyond the control of the department due to lack of available funds.

[**ARC 7429C**, IAB 12/27/23, effective 1/31/24]

These rules are intended to implement Iowa Code section 279.51.

[Filed emergency 1/5/90 after Notice 11/1/89—published 1/24/90, effective 1/5/90]
[Filed emergency 11/21/90—published 12/12/90, effective 11/21/90]
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[Filed ARC 3042C (Notice ARC 2939C, IAB 2/15/17), IAB 4/26/17, effective 5/31/17]
[Filed ARC 7429C (Notice ARC 7095C, IAB 10/4/23), IAB 12/27/23, effective 1/31/24]

CHAPTER 66
SCHOOL-BASED YOUTH SERVICES PROGRAMS
Rescinded **ARC 6379C**, IAB 6/29/22, effective 8/3/22

CHAPTER 67
EDUCATIONAL SUPPORT PROGRAMS FOR PARENTS
OF CHILDREN AGED BIRTH THROUGH FIVE YEARS WHO ARE AT RISK
Rescinded **ARC 7798C**, IAB 4/17/24, effective 5/22/24

CHAPTER 68
IOWA PUBLIC CHARTER AND INNOVATION ZONE SCHOOLS
Rescinded **ARC 8241C**, IAB 10/2/24, effective 11/6/24

CHAPTER 69
WAIVER OF SCHOOL BREAKFAST PROGRAM REQUIREMENT
Rescinded IAB 8/21/02, effective 9/25/02

TITLE XIII
AREA EDUCATION AGENCIES

CHAPTER 70
AEA MEDIA CENTERS
[Prior to 9/7/88, see Public Instruction Department[670] Ch 40]
Rescinded IAB 6/9/04, effective 7/14/04

CHAPTER 71
AEA EDUCATIONAL SERVICES
[Prior to 9/7/88, see Public Instruction Department[670] Ch 41]
Rescinded IAB 6/9/04, effective 7/14/04

CHAPTER 72
ACCREDITATION OF AREA EDUCATION AGENCIES

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

281—72.1(273) Scope. The purpose of Iowa's early childhood through twelfth grade educational system is to support learning for all students. Area education agencies, as part of that system, exist to provide leadership and equitable services for school improvement to schools and school districts in order to enable every learner to perform at higher education levels. Area education agencies are subject to accreditation by the state board of education as specified in Iowa Code section 273.10. These rules apply to the accreditation of area education agencies.

281—72.2(273) Definitions.

"AEA" is an acronym for area education agency.

"Agencywide goals" means cross-divisional desired targets to be reached over an extended period of time, derived from agencywide needs assessment and state and local student learning needs, and upon which services are focused.

"Baseline data" means information gathered at a selected point in time and used thereafter as a basis from which to monitor change.

"Board" means the Iowa state board of education.

"Department" means the state department of education.

"Director" means the state director of the department of education.

"Equitable" means that services provided by an AEA are accessible to all schools and school districts within the agency's service region.

"External knowledge base" means what is known, such as research and student achievement data, from the state or the nation about how learners in other settings perform and respond in a content area such as reading, mathematics, or science, as well as what is known about developing a learning environment that will support the desired student performance and response in a content area such as reading, mathematics, or science.

"Indicators of improvement" means internal data the agency uses to determine how well its continuous improvement processes are implemented.

"Indicators of quality" means external data sources which measure the effectiveness of services.

"School" means an accredited nonpublic school.

"School district" means a public school district.

"State indicators" means the school and school district indicators defined in 281—paragraph 12.8(3)*"a."*

281—72.3(273) Accreditation components. To be accredited by the board and maintain accreditation status, an AEA shall: provide services which meet the standards defined in rule 281—72.4(273), establish a comprehensive improvement plan as defined in rule 281—72.9(273), submit a board-approved annual budget as defined in subrule 72.10(1), and annually provide a progress report as defined in subrule 72.10(2).

281—72.4(273) Standards for services. An AEA shall provide services that meet these standards as evidenced by, but not limited to, the descriptors following each standard. These services shall be accessible to all schools and school districts within the agency's service region.

72.4(1) The AEA shall deliver services for school-community planning. The AEA assists schools and school districts in assessing needs of all students, developing collaborative relationships among community agencies, establishing shared direction, implementing actions to meet goals, and reporting progress towards goals.

72.4(2) The AEA shall deliver professional development services for schools, school districts and AEA instructional, administrative, and support personnel. The AEA anticipates and responds to schools' and school districts' needs; supports proven and emerging educational practices; aligns with school and

school district comprehensive long-range and annual improvement goals; uses adult learning theory; supports improved teaching; uses theory, demonstration, practice, feedback, and coaching; and addresses professional development activities as required by the Iowa Code or administrative rules.

72.4(3) The AEA shall deliver curriculum, instruction, and assessment services that address the areas of reading, language arts, mathematics, and science but may also be applied to other curriculum areas. These services support the development, implementation, and assessment of rigorous content standards in, but not limited to, reading, mathematics, and science. The AEA assists schools and school districts in gathering and analyzing student achievement data as well as data about the learning environment, compares those data to the external knowledge base, and uses that information to guide school and school district goal setting and implementation of actions to improve student learning.

72.4(4) The AEA shall address the diverse learning needs of all children and youth, including but not limited to services which address gifted and talented students, and meet the unique needs of students with disabilities who require special education. Services provide support to schools and school districts and include special education compliance with Iowa administrative rules for special education.

72.4(5) The AEA shall provide services that support multicultural, gender-fair approaches to the educational program pursuant to Iowa Code section 256.11. These services assist schools and school districts to take actions that ensure all students are free from discriminatory acts and practices; to establish policies and take actions that ensure all students are free from harassment; to incorporate into the educational program instructional strategies and student activities related to responsibilities, rights, and the respect for diversity which are necessary for successful citizenship in a diverse community and a global economy; and to incorporate on an ongoing basis activities within professional development that prepare and assist all employees to work effectively with diverse learners.

72.4(6) The AEA shall deliver media services. These services align with school and school district needs, support effective instruction, and provide consultation, research and information services, instructional resources, and materials preparation and dissemination to assist schools and school districts to meet the learning needs of all students and support local district media services. These services support the implementation of content standards in, but not limited to, reading, mathematics, and science. These services also support and integrate emerging technology.

72.4(7) The AEA shall supplement and support effective instruction for all students through school technology services. These services provide technology planning, technical assistance, and professional development, and support the incorporation of instructional technologies to improve student achievement. These services support the implementation of content standards in, but not limited to, reading, mathematics, and science. These services support and integrate emerging technology.

72.4(8) The AEA shall deliver services that develop leadership based upon the Iowa Standards for School Administrators as adopted by the board of educational examiners. Leadership services assist with recruitment, induction, retention, and professional development of educational leaders. AEAs develop and deliver leadership programs based on local and state educational needs and best practices.

72.4(9) The AEA shall deliver management services if requested. If the AEA provides management services to school districts, the services shall conform to the provisions of Iowa Code section 273.7A.

72.4(10) The AEA shall maintain a program and services evaluation and reporting system, consistent with the requirements of this chapter.

72.4(11) The AEA shall provide support for school district libraries in accordance with Iowa Code section 273.2(4).

72.4(12) The AEA shall provide support for early childhood service coordination for families and children to meet health, safety, and learning needs, including service coordination under 281—Chapter 120.

[**ARC 6981C**, IAB 4/19/23, effective 5/24/23]

281—72.5 to **72.8** Reserved.

281—72.9(273) Comprehensive improvement plan. Each AEA, on a cycle established by the department, shall submit to the department a comprehensive improvement plan. The plan shall be the basis for the improvement actions taken by the agency and shall also serve as a basis for the comprehensive site visit.

72.9(1) *Comprehensive improvement plan contents.* At a minimum, the comprehensive improvement plan for an AEA shall include the following:

a. Needs assessment. The plan shall contain a description of how the AEA conducts ongoing needs assessment.

b. Needs assessment summary. The plan shall contain a summary of the findings from agencywide needs assessment. The summary, at a minimum, shall include the following:

(1) Findings from AEA internal needs assessment which includes, at a minimum, four indicators of improvement:

1. Implementation of a continuous improvement model;
2. Implementation of services that respond to schools' and school districts' needs;
3. Demonstration of proactive leadership;
4. Use of data to implement actions to improve student learning;

(2) Findings from school and school district state indicator data;

(3) Findings from reviews of school and school district comprehensive school improvement plans;

(4) Findings from the department's comprehensive site visit reports to schools and school districts;

(5) Findings from AEA comprehensive site visit reports; and

(6) Findings from the department's statewide customer service survey.

c. Agencywide goals. The plan shall contain agencywide goals developed as a result of needs assessment findings. Agencywide goals shall be measurable and, at a minimum, focused on assisting schools and school districts with the school improvement process and improving teaching and learning as evidenced in the indicators of quality as prescribed in subrule 72.10(2).

d. Services. The plan shall describe the services developed to meet agencywide goals and to meet the standards defined in this chapter.

e. Action plans. The plan shall include agencywide actions to accomplish agencywide goals. Action plans shall include evidence of meeting all standards for services. Action plans shall include provisions for equitable availability of services. The agencywide action plans shall include, at a minimum, the following components:

(1) Agencywide data sources;

(2) Agencywide baseline data;

(3) Services to meet the agencywide goals;

(4) Agencywide resources, which include funding, staff allocation, and time and may be delivered directly, through contractual agreements, and through collaborative arrangements with other educational or community agencies;

(5) Agencywide responsible parties that will monitor the implementation of services in the action plan;

(6) A system for measuring the efficiency and effectiveness of services; and

(7) A process for reporting progress toward agencywide goals.

f. Provisions for management services. If the AEA provides management services to school districts, the plan shall include a description of how the agency provides those services as described in Iowa Code section 273.7A.

g. Professional development plan. The plan shall contain a summary of the agencywide professional development plan developed pursuant to 281—subrule 83.6(2).

72.9(2) *Plan submission and cycle.* Rescinded IAB 9/5/01, effective 10/10/01.

72.9(3) *Comprehensive improvement plan review process.* The comprehensive improvement plan of an AEA shall be reviewed by the department to determine if the plan meets the requirements of this chapter. An AEA will be provided reasonable time to correct any deficiencies.

281—72.10(273) Annual budget and annual progress report. Each AEA shall submit to the board an annual budget as required by Iowa Code section 273.3 and shall provide an annual progress report on the indicators of quality and the agencywide goals.

72.10(1) *Annual budget.* An annual budget shall be submitted by an AEA accredited by the board or an AEA that has been given conditional accreditation by the board as described in Iowa Code section 273.3(12) and subrule 72.11(4) to the board for approval, on forms provided by the department, no later

than March 15 preceding the next fiscal year. The board shall review the proposed budget and shall, before April 1, either grant approval or return the budget without approval with comments of the board included. An unapproved budget shall be resubmitted to the board for final approval no later than April 15.

72.10(2) *Annual progress report.* An AEA shall annually submit a written progress report to its schools and school districts and the department and make the report available to the public. The report shall include, but not be limited to, the following information:

a. Agencywide goals. Progress, at a minimum, toward the agencywide goals described in paragraph 72.9(1)*"c"* shall be reported. This progress shall include agencywide baseline data and changes in the baseline data as a result of services provided in each action plan.

b. Indicators of quality. Aggregated agencywide data shall include baseline data and trends over time for the following indicators of quality from, at a minimum, the state indicators, the statewide customer service survey, school and school district comprehensive school improvement plans, and school and school district annual progress reports:

(1) Targeted assistance. An AEA assists schools and school districts with specific student, teacher, and school needs evidenced in local school improvement plans by:

1. Addressing teacher, school and school district needs.
2. Responding to student learning needs.

(2) Improved student learning. An AEA assists schools and school districts in:

1. Improving student achievement in mathematics.
2. Improving student achievement in reading.
3. Improving student achievement in science.
4. Reducing student achievement gaps in mathematics.
5. Reducing student achievement gaps in reading.
6. Reducing student achievement gaps in science.
7. Reducing dropout rates.
8. Preparing students for postsecondary success.
9. Planning to ensure that students complete a core program.

(3) Improved teaching. An AEA assists schools and school districts in improving teaching in the following areas:

1. Mathematics.
2. Reading.
3. Science.

(4) Resource management. An AEA assists schools and school districts:

1. By delivering cost-efficient services.
2. By timely delivery of services.

(5) Customer satisfaction with services. An AEA determines customer satisfaction through:

1. High levels of participation.
2. High levels of customer satisfaction with quality of AEA services.

(6) Annual progress report review process. The annual progress report of an AEA shall be reviewed by a team appointed by the director. Following the review of an AEA's report, feedback will be provided to the agency.

281—72.11(273) Comprehensive site visit.

72.11(1) *On-site review.* An accreditation team shall conduct one or more on-site reviews of the AEA's progress toward agencywide goals and shall determine if services meet the standards in this chapter. Prior to an on-site review of an AEA, the accreditation team shall have access to the AEA's comprehensive improvement plan, annual progress report, and annual budget as well as any other information collected by the department relating to the AEA.

72.11(2) *Accreditation team.* The membership of the accreditation team shall be determined by the director. Each team member should have appropriate competencies, background, and experiences to enable the member to contribute to the evaluation visit. The team shall include at least four members, including, but not limited to:

a. Department staff.

b. Representatives from various sizes of schools and school districts served by the AEA being evaluated.

c. AEA staff from other AEAs.

d. Others with expertise as deemed appropriate by the director.

72.11(3) *Accreditation team action.* After an on-site review of an AEA, the accreditation team shall determine whether the requirements of this chapter have been met and shall make a report to the director identifying which standards and other accreditation requirements in this chapter an AEA has or has not met. The accreditation team shall report strengths and weaknesses, if any, for each standard or requirement, and shall advise the AEA of available resources and technical assistance to further enhance the strengths and improve areas of weakness. An AEA may respond to the accreditation team's report by providing to the board factual information concerning its services.

72.11(4) *Accreditation.* All AEAs shall be deemed accredited upon the date of implementation of these rules. Accreditation of an AEA by the board shall be based on the recommendation of the director after study of the factual and evaluative evidence on record about the standards and other requirements as described in this chapter and based upon the timely submission of information required by the department. If, at any time, the board determines that an AEA has not met all standards and other requirements, the board shall require the AEA to address the deficiencies.

a. Accreditation status. After completion of the comprehensive site visit under rule 281—72.11(273), the board shall grant continuation of accreditation if all standards and other requirements are met. If the board determines that an AEA has not met all standards and other requirements, the board shall grant conditional accreditation to the agency.

b. Conditional accreditation. If the board grants conditional accreditation, the department shall notify the administrator of the AEA and each member of the board of directors of the AEA within 15 days. The notice shall contain a description of the accreditation deficiencies.

c. Remediation plan. Upon granting of conditional accreditation by the board, the director, in cooperation with the board of directors of the AEA, shall establish a remediation plan. The remediation plan shall describe how the AEA will correct deficiencies to meet accreditation standards and shall establish a timeline and deadline date for correction of the deficiencies. The remediation plan is subject to the approval of the board. The AEA shall remain conditionally accredited during the implementation of the remediation plan.

d. Implementation of remediation plan. At intervals prescribed in the remediation plan or at the request of the director, the accreditation team shall revisit the AEA and shall determine whether the deficiencies in the accreditation standards are being or have been corrected and shall make a report and recommendation to the director and the board. The board shall review this report and recommendations and shall determine whether the deficiencies have been corrected.

e. Failure to correct deficiencies. If the deficiencies have not been corrected within the time stipulated in the remediation plan, the board shall remove accreditation of the agency. At the hearing before the board, the AEA may be represented by counsel and may present evidence. The board may provide for the hearing to be recorded or reported. If requested by the AEA at least 10 days before the hearing, the board shall provide for the hearing to be recorded or reported at the expense of the AEA. Within 30 days after the hearing, the board shall render a written decision approving or removing the accreditation. Action by the board at this time is final agency action for the purposes of Iowa Code chapter 17A. The department shall notify the administrator of the AEA, each member of the board of directors of the AEA, and the schools and school districts served by the AEA of the decision of the board.

f. Required response to removal of accreditation. After removal of accreditation of the agency, the AEA board of directors shall make provisions for the continuation of services to schools and school districts subject to approval by the state board of education.

These rules are intended to implement Iowa Code section 273.10.

[Filed 8/8/97, Notice 5/7/97—published 8/27/97, effective 10/1/97]
[Filed 8/10/01, Notice 4/18/01—published 9/5/01, effective 10/10/01]
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[Filed ARC 6981C (Notice ARC 6877C, IAB 2/8/23), IAB 4/19/23, effective 5/24/23]

TITLE XIV
TEACHERS AND PROFESSIONAL LICENSING

CHAPTER 73
ISSUANCE OF CERTIFICATES AND ENDORSEMENTS

[Prior to 9/7/88, see Public Instruction Department[670] Ch 70]
[Transferred to Educational Examiners[282] Ch 14, IAB 10/3/90, effective 9/14/90]

CHAPTER 74
renewal of certificates

[Prior to 9/7/88 see Public Instruction Department[670]Ch 71]
[Transferred to Educational Examiners[282]Ch 17, IAB 10/3/90, effective 9/14/90]

CHAPTER 75
CONVERSION INFORMATION

[Prior to 9/7/88, see Public Instruction Department[670]Ch 72]
[Transferred to Educational Examiners[282]Ch 18, IAB 10/3/90, effective 9/14/90]

CHAPTER 76
ADVISORY COMMITTEES

[Prior to 9/7/88, see Public Instruction Department[670]Ch 75]
Rescinded IAB 10/2/91, effective 11/6/91

CHAPTER 77
STANDARDS FOR TEACHER INTERN PREPARATION PROGRAMS

Rescinded **ARC 8050C**, IAB 6/12/24, effective 7/17/24

CHAPTER 78
STANDARDS FOR GRADUATE PRACTITIONER PREPARATION PROGRAMS

[Prior to 9/7/88, see Public Instruction Department[670] Ch 77]
Rescinded IAB 4/3/02, effective 5/8/02

CHAPTER 79
STANDARDS FOR PRACTITIONER AND ADMINISTRATOR PREPARATION PROGRAMS

[Prior to IAB 6/12/24, subject appeared in Ch 77]

Chapter rescission date pursuant to Iowa Code section 17A.7: 7/17/29

DIVISION I
GENERAL STANDARDS APPLICABLE TO ALL PRACTITIONER PREPARATION PROGRAMS

281—79.1(256) General statement. Programs of practitioner and administrator preparation leading to licensure in Iowa are subject to approval by the state board of education as provided in Iowa Code chapter 256. All programs having accreditation on August 31, 2001, are presumed accredited unless or until the state board takes formal action to remove accreditation.

[**ARC 8050C**, IAB 6/12/24, effective 7/17/24]

281—79.2(256) Definitions. For purposes of clarity, the following definitions are used throughout the chapter:

"Administrator candidates" means individuals who are enrolled in practitioner preparation programs leading to administrator licensure.

"Administrator preparation programs" means the programs of practitioner preparation leading to licensure of administrators.

"Area education agency" or *"AEA"* means a regional service agency that provides school improvement services for students, families, teachers, administrators and the community.

"BOEE" means the board of educational examiners, the board responsible for establishing licensure requirements and issuing licenses.

"Candidates" means individuals who are preparing to become educational practitioners through a practitioner preparation program.

"Clinical experiences" means a candidate's direct experiences in PK-12 schools. "Clinical experiences" includes field experiences and student teaching or internships.

"College/university supervisors" means qualified employees or individuals contracted by the college or university offering educator preparation who provide guidance and supervision to candidates during the candidates' clinical experiences in the schools.

"Cooperating administrators" means school administrators who provide guidance and supervision to administrator candidates during the candidates' clinical experiences in the schools.

"Cooperating teachers" means appropriately licensed classroom teachers of record who provide guidance and supervision to teacher candidates in the cooperating teachers' classrooms during the candidates' field experiences in the schools.

"Delivery model" means the form in which the educator preparation program is delivered to candidates and may include conventional campus-based, face-to-face models, distance learning models, off-campus models, programs delivered through consortia arrangements, and programs or elements delivered by contracted outside providers.

"Department" means the department of education.

"Director" means director of the department.

"Distance learning" means a formal education process in which the major portion of the instruction occurs when the learner and the instructor are not in the same place at the same time and occurs through virtually any media, including printed or digital materials, a learning management system (LMS) or online communications.

"Distance learning program" means a program in which over half of the required courses in the program occur when the learner and the instructor are not in the same place at the same time (more information is contained in the definition of "distance learning"). These programs include those offered by

the professional educational unit through a contract with an outside vendor or in a consortium arrangement with other higher education institutions, area education agencies, or other entities.

"Diverse groups" means one or more groups of individuals possessing certain traits or characteristics, including age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity, physical attributes, physical or mental ability or disability, ancestry, political party preference, political belief, socioeconomic status or familial status.

"Educator preparation program" means practitioner preparation program.

"Facility" means a residential or other setting for a child in which the child receives an appropriate educational program. "Facility" includes a foster care facility as defined in Iowa Code section 237.1, a facility that provides residential treatment pursuant to Iowa Code chapter 125, an approved or licensed shelter care home as defined in Iowa Code section 232.2(34), an approved juvenile detention home as defined in Iowa Code section 232.2(32) and a psychiatric medical institution for children as defined in Iowa Code section 135H.1.

"Faculty" means the teaching and supervising staff of a university or college responsible for delivering instruction or providing supervision and feedback to the candidates.

"Institution" means a college or university in Iowa offering practitioner preparation or an educational organization offering administrator preparation and seeking state board approval of its practitioner preparation program.

"Institutional accrediting agency" means an institutional accrediting agency recognized by the U.S. Department of Education. Agencies include regional and national accreditors. The department will maintain a web link to a list of currently approved accreditors on the department's practitioner preparation web page.

"InTASC" means Interstate Teacher Assessment and Support Consortium, the source of national standards for teachers.

"Intern" means an individual who is enrolled in a teacher intern preparation program and is currently employed as an intern by an Iowa school district.

"Iowa core" means a legislatively mandated state initiative that provides local school districts and nonpublic schools a guide to delivering instruction to students based on consistent, challenging and meaningful content.

"Iowa teaching standards" represents a set of knowledge and skills that reflect evidence of best practices regarding effective teaching as listed in rule 281—83.4(284). The standards serve as the basis for comprehensive evaluations of teachers and professional development plans.

"Leadership preparation program" means an administrator preparation program.

"Mentor" means an experienced educator who provides guidance to a practitioner, administrator candidate or novice educator. For intern programs, "mentor" means an individual employed by a school district or area education agency as a classroom teacher, or a retired teacher, who holds a valid license issued under Iowa Code chapter 272. The individual must have a four-year record of successful teaching practice with at least two of the four years on a nonprobationary basis and demonstrate professional commitment to both the improvement of teaching and learning and the development of beginning teachers or teacher interns.

"National professional standards" means standards developed by nationally recognized organizations that establish best practices for education.

"NELP standards" means the National Educational Leadership Preparation standards for administrator preparation.

"Novice" means an individual in an educational position who has no previous experience in the role of that position or who is newly licensed by the BOEE.

"Off-campus program" means a program offered by a unit on a site other than the main campus. Off-campus programs may be offered in the same state, in other states, or in countries other than the United States.

"Practitioner" means a teacher, administrator or other school personnel holding a license issued by the BOEE.

"Practitioner candidates" means individuals who are enrolled in practitioner preparation programs leading to licensure as teachers, as administrators or as other professional school personnel in professions that require a license issued by the BOEE.

"Practitioner preparation programs" means the programs of practitioner preparation leading to licensure of teachers, administrators and other professional school personnel.

"Program" means a specific field of specialization leading to a specific endorsement.

"School district" means a school corporation as defined in Iowa Code chapter 290. A school district is also referred to as a "local education agency" or "LEA."

"State board" means Iowa state board of education.

"Students" means PK-12 pupils.

"Teacher candidate" means an individual who is enrolled in a practitioner preparation program leading to teacher licensure.

"Teacher intern candidate" means an individual who is enrolled in a teacher intern preparation program leading to teacher intern licensure and who has not yet begun employment as an intern.

"Teacher intern preparation program" means the program for teacher intern preparation at colleges and universities leading to licensure of teacher interns.

"Unit" means the organizational entity within an institution with the responsibility of administering and delivering all practitioner preparation programs.

[**ARC 8050C**, IAB 6/12/24, effective 7/17/24]

281—79.3(256) Institutions affected. In order to attain the authority to recommend candidates for Iowa licensure, colleges and universities offering practitioner preparation programs in Iowa, as well as other Iowa educational organizations engaged in the preparation of school administrators, teacher interns and holders of other school professional licensure, will meet the standards contained in this chapter to gain or maintain state board approval of the institution's programs.

[**ARC 8050C**, IAB 6/12/24, effective 7/17/24]

281—79.4(256) Criteria for practitioner preparation programs. Each institution seeking approval of its practitioner preparation programs by the state board, including those programs offered by distance learning delivery models or at off-campus locations, must be accredited by an institutional accrediting agency recognized by the U.S. Department of Education and file evidence of the extent to which each program meets the standards contained in this chapter by means of a written self-evaluation report and an evaluation conducted by the department. The institution will demonstrate such evidence by means of a template developed by the department and through a site visit conducted by the department. After the state board has approved the practitioner preparation programs of an institution, students who complete the programs and are recommended by the authorized official of that institution will be issued the appropriate license and endorsement(s).

[**ARC 8050C**, IAB 6/12/24, effective 7/17/24]

281—79.5(256) Approval of programs.

79.5(1) Approval of institutions' practitioner preparation programs by the state board will be based on the recommendation of the director after study of the factual and evaluative evidence on record about each program in terms of the standards contained in this chapter.

79.5(2) Approval, if granted, is for a term of seven years; however, approval for a lesser term may be granted by the state board if it determines conditions so warrant.

79.5(3) If approval is not granted, the applying institution will be advised concerning the areas in which improvement or changes appear to be essential for approval. In this case, the institution will be given the opportunity to present factual information concerning its programs at a regularly scheduled meeting of the state board, not beyond three months of the board's initial decision. Following a minimum of six months after the board's decision to deny approval, the institution may reapply when it is ready to show what actions have been taken to address the areas of suggested improvement.

79.5(4) Programs may be granted conditional approval upon review of appropriate documentation. In such an instance, the program will receive a full review after one year or, in the case of a new program, at the point at which candidates demonstrate mastery of standards for licensure.
[**ARC 8050C**, IAB 6/12/24, effective 7/17/24]

281—79.6(256) Visiting teams. Upon application or reapplication for approval, a review team will visit each institution for evaluation of its practitioner preparation program(s). When an institution offers off-campus practitioner preparation programs, the team may elect to include visits to some or all of the sites of the off-campus programs. The membership of the team is selected by the department with the concurrence of the institution being visited. The team may include faculty members of other practitioner preparation institutions; personnel from elementary and secondary schools, to include licensed practitioners; personnel of the state department of education; personnel of the BOEE; and representatives from professional education organizations. Each team member should have appropriate competencies, background and experiences to enable the member to contribute to the evaluation visit. The expenses for the review team will be borne by the institution.
[**ARC 8050C**, IAB 6/12/24, effective 7/17/24]

281—79.7(256) Periodic reports. Upon request of the department, approved programs will make periodic reports that provide basic information necessary to keep records of each practitioner preparation program up to date and to carry out research studies relating to practitioner preparation. The department may request that information be disaggregated by attendance center or delivery model or both.
[**ARC 8050C**, IAB 6/12/24, effective 7/17/24]

281—79.8(256) Reevaluation of practitioner preparation programs. Every seven years or at any time deemed necessary by the director, an institution will conduct a self-evaluation and file a written institutional report with evidence of its practitioner preparation programs to be followed by a review team visit. Any action for continued approval or rescission of approval will be approved by the state board.
[**ARC 8050C**, IAB 6/12/24, effective 7/17/24]

281—79.9(256) Approval of program changes. Upon application by an institution, the director is authorized to approve minor additions to, or changes within, the curricula of an institution's approved practitioner preparation program. When an institution proposes a revision that exceeds the primary scope of its programs, the revision becomes operative only after having been approved by the state board. Approval of any institution's application for adding the dyslexia specialist endorsement must include approval by the Iowa reading research center.
[**ARC 8050C**, IAB 6/12/24, effective 7/17/24]

DIVISION II
SPECIFIC EDUCATION STANDARDS APPLICABLE TO ALL PRACTITIONER PREPARATION PROGRAMS

281—79.10(256) Governance and resources standard. Governance and resources adequately support the preparation of practitioner candidates to meet professional, state and institutional standards in accordance with the following provisions.

79.10(1) The professional education unit has primary responsibility for all educator preparation programs offered by the institution through any delivery model.

79.10(2) The unit's conceptual framework and governance structure establishes the shared vision for the unit and provides the foundation for all components of the educator preparation programs.

79.10(3) The unit demonstrates alignment of unit and program standards with current national professional standards for educator preparation; teacher preparation aligns with InTASC standards; and each unit defines unit and program standards and embeds them in courses and field experiences.

79.10(4) The unit provides evidence of ongoing collaboration with appropriate stakeholders. There is an active advisory committee that is involved semiannually in providing input for program evaluation and continuous improvement.

79.10(5) When a unit is a part of a college or university, there is ongoing collaboration with the appropriate departments of the institution, especially regarding content knowledge.

79.10(6) The institution provides resources and support necessary for the delivery of quality preparation program(s). The resources and support include the following:

a. Financial resources; facilities; appropriate educational materials, equipment and library services; and commitment to a work climate, policies and faculty/staff assignments that promote/support best practices in teaching, scholarship and service;

b. Resources to support professional development opportunities;

c. Resources to support technological and instructional needs to enhance candidate learning;

d. Resources to support quality clinical experiences for all educator candidates;

e. Commitment of sufficient administrative, clerical and technical staff;

f. Equitable resources and access for all program components, regardless of delivery model or location; and

g. The use of part-time faculty and graduate students in teaching roles is purposeful and is managed to ensure integrity, quality, and continuity of all programs.

79.10(7) The unit has a clearly articulated appeals process, aligned with the institutional policy, for decisions impacting candidates. This process is communicated to all candidates and faculty.

[**ARC 8050C**, IAB 6/12/24, effective 7/17/24]

281—79.11(256) Diversity standard. The environment and experiences provided for practitioner candidates support candidate growth in knowledge, skills and dispositions to help all students learn in accordance with the following provision: the institution's and unit's plans, policies and practices document their efforts in establishing a supportive environment and maintaining a diverse faculty and student body.

[**ARC 8050C**, IAB 6/12/24, effective 7/17/24]

281—79.12(256) Faculty standard. Faculty qualifications and performance will facilitate the professional development of practitioner candidates in accordance with the following provisions.

79.12(1) The unit defines and communicates the roles and requirements for faculty members by position. The unit describes how roles and requirements are determined.

79.12(2) The unit documents the alignment of teaching duties for each faculty member with that member's preparation, knowledge, experiences and skills.

79.12(3) The unit holds faculty members accountable for teaching prowess. This accountability includes evaluation and indicators for continuous improvement.

79.12(4) The unit holds faculty members accountable for professional growth to meet the academic needs of the unit.

79.12(5) Faculty members collaborate with:

a. Colleagues in the unit;

b. Colleagues across the institution;

c. Colleagues in PK-12 schools/agencies/learning settings. Faculty members engage in professional education and maintain ongoing involvement in activities in preschool and elementary, middle or secondary schools. For faculty members engaged in teacher preparation, activities include at least 40 hours of teaching or co-teaching at the appropriate grade level(s) during a period not exceeding five years in duration.

[**ARC 8050C**, IAB 6/12/24, effective 7/17/24]

281—79.13(256) Assessment system and unit evaluation standard. The unit's system of assessment will appropriately monitor individual candidate performance and use that data in concert with other information to evaluate and improve the unit and its programs in accordance with the following provisions.

79.13(1) The unit has a clearly defined, cohesive system of assessment that includes both individual candidate assessment and comprehensive unit assessment.

79.13(2) The assessment system is based on unit standards.

79.13(3) The unit tracks and communicates the following criteria for candidates:

a. Entrance into the program.

b. Continuation in the program with clearly defined checkpoints/gates.

c. Admission to clinical experiences (for teacher education, this includes specific criteria for admission to student teaching).

d. Program completion.

79.13(4) Individual candidate assessment includes all of the following:

a. Measures used for candidate assessment are fair, reliable and valid.

b. Candidates are assessed on their demonstration/attainment of unit standards.

c. Multiple measures are used for assessment of the candidate on each unit standard.

d. Candidates are assessed on unit standards at different developmental stages.

e. Candidates within designated endorsement areas, as determined on the department website (educate.iowa.gov), complete the foundations of reading assessment.

f. Candidates are provided with formative feedback and opportunities to utilize the feedback to reflect upon and guide their development and growth toward attainment of unit standards.

79.13(5) The unit will document regular reviews, evaluation and revision to the system of assessment.

a. The collection, aggregation, analysis and evaluation of assessment data described in this subrule will take place on a regular cycle.

b. Comprehensive unit assessment includes all of the following:

(1) Individual candidate assessment data on unit standards, as described in subrule 79.13(4), are analyzed.

(2) Preparation programs will annually report assessment data from the Foundations of Reading assessment, as described in subrule 79.13(4), and services provided for candidates to the department. Analysis of aggregated state data will be utilized to determine Iowa's average passage rate.

(3) The aggregated assessment data are analyzed to evaluate programs.

(4) Findings from the evaluation of aggregated assessment data are shared with stakeholders and utilized for program improvement decisions.

79.13(6) The unit shall conduct a survey of graduates and the graduates' employers to ensure that the graduates are well prepared and use the data for program improvement.

79.13(7) For teacher intern preparation programs, candidate assessment includes clear criteria for the following:

a. Acceptance requirements, including:

(1) Completion of a baccalaureate degree from a college or university accredited by an institutional accrediting agency as recognized by the United States Department of Education that meets program-established required grade point criteria for the baccalaureate degree and content area;

(2) Completion of coursework that meets the state minimum requirements for at least one of the BOEE's secondary endorsement areas, unless the endorsement area requirements are embedded in the teacher intern professional core; and

(3) Screening designed to generate information about the prospective candidate's attributes identified as essential for candidates in the program.

b. Prior to teacher intern licensure, verification of an offer of employment as an intern from a school or district administrator.

c. Program completion and subsequent recommendation by the authorized official of the program for an initial teaching license, including recommendation for an intern license for one or more of the endorsements identified on the department's teacher preparation website at educate.iowa.gov/pk-12/educator-quality/practitioner-preparation.

If a candidate who was recommended for a teacher intern license exits the program or stops attending, the program is required to immediately report this change of status to the board of educational examiners.

[**ARC 8050C**, IAB 6/12/24, effective 7/17/24; **ARC 9104C**, IAB 4/16/25, effective 5/21/25]

DIVISION III
SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO INITIAL
PRACTITIONER PREPARATION PROGRAMS FOR TEACHER CANDIDATES

281—79.14(256) Teacher preparation clinical practice standard. The unit and its school partners shall provide field experiences and student teaching opportunities that assist candidates in becoming successful teachers in accordance with the following provisions.

79.14(1) The unit ensures that clinical experiences occurring in all locations are in high-quality instructional programs for PK-12 students in a state-approved school or educational facility and are well-sequenced, supervised by appropriately qualified personnel, monitored by the unit and integrated into the unit standards. These expectations are shared with teacher candidates, college/university supervisors and cooperating teachers.

79.14(2) Cooperating teachers and college/university supervisors share responsibility for evaluating the teacher candidates' achievement of unit standards. Clinical experiences are structured to have multiple performance-based assessments at key points within the program.

79.14(3) Teacher candidates experience clinical practices in multiple settings that include diverse groups and diverse learning needs.

79.14(4) Teacher candidates admitted to a teacher preparation program must complete a minimum of 80 hours of pre-student teaching field experiences, with at least 10 hours occurring prior to acceptance into the program.

79.14(5) Pre-student teaching field experiences support learning in context and include all of the following:

a. High-quality instructional programs for students in a state-approved school or educational facility.

b. Opportunities for teacher candidates to observe and be observed by others and to engage in discussion and reflection on clinical practice, planning, instruction and assessment.

79.14(6) The unit is responsible for ensuring that the student teaching experience for initial licensure:

a. Shall be a minimum of 14 weeks in duration during the teacher candidate's final year of the teacher preparation program.

b. Takes place in the classroom of a cooperating teacher who is appropriately licensed in the subject area and grade-level endorsement for which the teacher candidate is being prepared.

c. Includes prescribed minimum expectations and responsibilities, including ethical behavior, for the teacher candidate.

d. Involves the teacher candidate in communication and interaction with parents or guardians of students in the teacher candidate's classroom.

e. Requires the teacher candidate to become knowledgeable about the Iowa teaching standards and to experience a mock evaluation, which shall not be used as an assessment tool by the unit, performed by the cooperating teacher or a person who holds an Iowa evaluator license.

f. Requires collaborative involvement of the teacher candidate, cooperating teacher and college/university supervisor in candidate growth. This collaborative involvement includes biweekly supervisor observations with feedback.

g. Requires the teacher candidate to bear primary responsibility for planning, instruction and assessment within the classroom for a minimum of two weeks (ten school days).

h. Includes a written evaluation procedure, after which the completed evaluation form is included in the teacher candidate's permanent record.

79.14(7) The unit annually offers one or more workshops for cooperating teachers to define the objectives of the student teaching experience, review the responsibilities of the cooperating teacher and provide the cooperating teacher other information and assistance the unit deems necessary. The duration of the workshop will be equivalent to one day.

79.14(8) The institution enters into a written contract with the cooperating school or district providing clinical experiences, including field experiences and student teaching.

79.14(9) For teacher candidates with prior experience as a substitute teacher or a paraeducator, the terms of Iowa Code section 256.16(1)*"c"* apply. The unit will record evidence of prior experiences accepted under this subrule toward the student teaching experience.

[**ARC 8050C**, IAB 6/12/24, effective 7/17/24; **ARC 9104C**, IAB 4/16/25, effective 5/21/25]

281—79.15(256) Teacher candidate knowledge, skills and dispositions standard. Teacher candidates are to demonstrate the content, pedagogical and professional knowledge, skills and dispositions necessary to help all students learn in accordance with the following provisions:

79.15(1) Each teacher candidate demonstrates the acquisition of a core of liberal arts knowledge, including English composition, mathematics, natural sciences, social sciences and humanities.

79.15(2) Each teacher candidate receives dedicated coursework and demonstrates competency related to the study of human relations, cultural competency and diverse learners, such that the candidate is prepared to work with students from diverse groups as defined in rule 281—79.2(256). The unit shall provide evidence that teacher candidates develop the ability to identify and meet the needs of all learners, including:

a. Students from diverse ethnic, racial and socioeconomic backgrounds.

b. Students with disabilities. This will include preparation in developing and implementing individualized education programs and behavioral intervention plans, preparation for educating individuals in the least restrictive environment and identifying that environment, and strategies that address difficult and violent student behavior and improve academic engagement and achievement.

c. Students who are struggling with literacy, including those with dyslexia.

d. Students who are gifted and talented.

e. English learners.

f. Students who may be at risk of not succeeding in school. This preparation will include classroom management addressing high-risk behaviors, including behaviors related to substance use disorder.

79.15(3) Literacy instruction and practical application include all of the following:

a. All teacher candidates demonstrate competency in literacy, including reading theory, knowledge, and evidence-based reading strategies and approaches, and integrating literacy instruction into content areas. The teacher candidate demonstrates competency in responsive teaching and making appropriate accommodations for students who struggle with literacy. Demonstrated competency shall address the needs of all students, including students with disabilities; students who are at risk of academic failure; students who have been identified as gifted and talented or English learners; and students with dyslexia, whether or not such students have been identified as children requiring special education under Iowa Code chapter 256B. Literacy curriculum shall include evidence-based reading instruction, determined by research, including those practices identified within the statewide literacy plan, and institutions ensuring the preparation shall not include instruction or practical application on teaching foundational reading that incorporates the three-cueing system.

b. Each teacher candidate in specified endorsement areas listed on the department website (educate.iowa.gov), determined by the department, demonstrates competency in direct and explicit strategies and systematic and sequential approaches to teaching phonemic awareness, phonics, vocabulary, fluency, and text comprehension. Literacy instruction and practical application shall include evidence-based reading instruction and shall not include instruction or practical application on teaching foundational reading that incorporates the three-cueing system.

79.15(4) Each teacher candidate demonstrates competency in all of the following professional core curricula:

a. Learner development. The teacher understands how learners grow and develop, recognizing that patterns of learning and development vary individually within and across the cognitive, linguistic, social, emotional and physical areas, and designs and implements developmentally appropriate and challenging learning experiences.

b. Learning differences. The teacher uses understanding of individual differences and diverse cultures and communities to ensure inclusive learning environments that enable each learner to meet high standards.

c. Learning environments. The teacher works with others to create environments that support individual and collaborative learning, and that encourage positive social interaction, active engagement in learning and self-motivation.

d. Content knowledge. The teacher understands the central concepts, tools of inquiry and structures of the discipline(s) being taught and creates learning experiences directly related to the Iowa core that make the discipline accessible and meaningful for learners to ensure mastery of the content.

e. Application of content. The teacher understands how to connect concepts and use differing perspectives to engage learners in critical thinking, creativity and collaborative problem solving related to authentic local and global issues.

f. Assessment. The teacher understands and uses multiple methods of assessment to engage learners in their own growth, to monitor learner progress and to guide the teacher's and learners' decision-making.

g. Planning for instruction. The teacher plans instruction that supports every student in meeting rigorous learning goals by drawing upon knowledge of content areas, curriculum, cross-disciplinary skills and pedagogy, as well as knowledge of the learners and the community context.

h. Instructional strategies. The teacher understands and uses a variety of instructional strategies to encourage learners to develop deep understanding of content areas and their connections, and to build skills to apply knowledge in meaningful ways.

i. Professional learning and ethical practice. The teacher engages in ongoing professional learning and uses evidence to continually evaluate the teacher's practice, particularly the effects of the teacher's choices and actions on others (learners, families, other professionals and the community) and adapts practice to meet the needs of each learner.

j. Leadership and collaboration. The teacher seeks appropriate leadership roles and opportunities to take responsibility for student learning, to collaborate with learners, families, colleagues, other school professionals and community members to ensure learner growth, and to advance the profession.

k. Technology. The teacher candidate effectively integrates technology into instruction to support student learning.

l. Methods of teaching. The teacher candidate understands and uses methods of teaching that have an emphasis on the subject and grade-level endorsement desired.

79.15(5) Each teacher candidate must complete a 30-semester-hour teaching major that minimally includes the requirements for at least one of the basic endorsement areas, special education teaching endorsements or secondary level occupational endorsements. Additionally, each elementary teacher candidate must also complete a field of specialization in a single discipline or a formal interdisciplinary program of at least 12 semester hours. Each teacher candidate is to meet all requirements established by the BOEE for any endorsement for which the teacher candidate is recommended.

[**ARC 8050C**, IAB 6/12/24, effective 7/17/24; **ARC 9104C**, IAB 4/16/25, effective 5/21/25]

DIVISION IV
SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO ADMINISTRATOR PREPARATION PROGRAMS

281—79.16(256) Administrator preparation clinical practice standard. The unit and its school partners shall provide clinical experiences that assist candidates in becoming successful school administrators in accordance with the following provisions.

79.16(1) The unit ensures that:

a. Principal candidates successfully complete clinical experiences that provide candidates with opportunities to synthesize and apply the knowledge and skills identified in subrule 79.17(2) in ways that approximate the full range of responsibilities of building-level leaders and enable them to promote the current and future success and well-being of each student and adult in their school.

b. Superintendent candidates successfully complete clinical experiences that provide candidates opportunities to synthesize and apply the knowledge and skills identified in subrule 79.17(3) in ways that approximate the full range of responsibilities of district-level leaders and enable them to promote the current and future success and well-being of each student and adult in their district.

79.16(2) The unit ensures that clinical experiences occurring in all locations are coherent, authentic, sustained and purposeful opportunities that are monitored by the unit. These expectations are shared with candidates, supervisors and cooperating administrators.

79.16(3) Cooperating administrators and college/university supervisors share responsibility for evaluating the candidate's achievement of unit standards. Clinical experiences are structured to have multiple performance-based assessments at key points within the program to demonstrate candidates' attainment of unit standards.

79.16(4) Clinical experiences include all of the following criteria:

a. Include a minimum of 400 hours during the candidate's preparation program.

b. Take place with appropriately licensed cooperating administrators in state-approved schools or educational facilities.

c. Take place in multiple high-quality educational settings that include diverse populations and students of different age groups.

d. Include documented expectations and responsibilities for cooperating administrators, school districts, accredited nonpublic schools or AEAs and for higher education supervising faculty members.

e. Provide opportunities for candidates to apply and use the knowledge, skills and dispositions identified in subrules 79.17(2) and 79.17(3).

79.16(5) The institution annually delivers one or more professional development opportunities for cooperating administrators to define the objectives of the field experience, review the responsibilities of the cooperating administrator, build skills in coaching and mentoring and provide the cooperating administrator other information and assistance the institution deems necessary.

79.16(6) The institution enters into a written contract with the cooperating school districts that provide field experiences for administrator candidates.

[**ARC 8050C**, IAB 6/12/24, effective 7/17/24]

281—79.17(256) Administrator knowledge, skills and dispositions standard. Administrator candidates will demonstrate the content, pedagogical and professional knowledge, skills and dispositions necessary to help all students learn in accordance with the following provisions:

79.17(1) Each educational administrator program will define program standards (aligned with current NELP standards) and embed them in coursework and clinical experiences at a level appropriate for a novice administrator.

79.17(2) Each principal candidate demonstrates the knowledge, skills and dispositions necessary to:

a. Collaboratively lead, design and implement a school mission, vision and process for continuous improvement that reflects a core set of values and priorities that include data use, technology, equity, diversity, digital citizenship and community. (Mission, Vision and Improvement)

b. Advocate for ethical decisions and cultivate and enact professional norms. (Ethics and Professional Norms)

c. Develop and maintain a supportive, equitable, culturally responsive and inclusive school culture. (Equity, Inclusiveness and Cultural Responsiveness)

d. Evaluate, develop and implement coherent systems of curriculum, instruction, data systems, and supports, including Iowa core implementation and assessment. (Learning and Instruction)

e. Strengthen student learning, support school improvement and advocate for the needs of the school and community. (Community and External Leadership)

f. Improve management, communication, technology, school-level governance and operation systems to develop and improve data-informed and equitable school resource plans and to apply laws, policies and regulations. (Operations and Management)

g. Build the school's professional capacity, engage staff in the development of a collaborative professional culture and improve systems of staff supervision, evaluation, support and professional learning. (Building Professional Capacity)

79.17(3) Each superintendent candidate demonstrates competency in all of the following professional core curricula:

a. Collaboratively lead, design and implement a district mission, vision and process for continuous improvement that reflects a core set of values and priorities that include data use, technology, values, equity, diversity, digital citizenship and community. (District Mission, Vision and Improvement)

b. Advocate for ethical decisions and cultivate professional norms and culture. (Ethics and Professional Norms)

c. Develop and maintain a supportive, equitable, culturally responsive and inclusive district culture. (Equity, Inclusiveness and Cultural Responsiveness)

d. Evaluate, design, cultivate and implement coherent systems of curriculum, instruction, data systems, supports, assessment and instructional leadership. (Learning and Instruction)

e. Understand and engage families, communities and other constituents in the work of schools and the district and to advocate for district, student and community needs. (Community and External Leadership)

f. Develop, monitor, evaluate and manage data-informed and equitable district systems for operations, resources, technology and human capital management. (Operations and Management)

g. Cultivate relationships, lead collaborative decision-making and governance and represent and advocate for district needs in broader policy conversations. (Policy, Governance and Advocacy)

79.17(4) Each new administrator candidate successfully completes the appropriate evaluator training provided by a state-approved evaluator trainer.

79.17(5) Each administrator candidate demonstrates, within specific coursework and clinical experiences, the ability to develop and maintain a supportive, equitable, culturally responsive and inclusive district culture with students and staff from diverse groups as defined in rule 281—79.2(256). The unit shall provide evidence that administrator candidates develop the ability to meet the needs of all learners, as well as ensuring teachers meet the needs of diverse learners, including:

a. Students from diverse ethnic, racial and socioeconomic backgrounds.

b. Students with disabilities. This will include preparation in developing and implementing individualized education programs and behavioral intervention plans, preparation for educating individuals in the least restrictive environment and identifying that environment, and strategies that address difficult and violent student behavior and improve academic engagement and achievement.

c. Students who are struggling with literacy, including those with dyslexia.

d. Students who are gifted and talented.

e. English learners.

f. Students who may be at risk of not succeeding in school. This preparation will include classroom management addressing high-risk behaviors, including behaviors related to substance use disorder.

[**ARC 8050C**, IAB 6/12/24, effective 7/17/24]

DIVISION V
SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO PRACTITIONER PREPARATION PROGRAMS OTHER THAN TEACHER OR ADMINISTRATOR PREPARATION PROGRAMS

281—79.18(256) Purpose. This division addresses preparation of an individual seeking a license based on school-centered preparation for employment as one of the following: school guidance counselor, school audiologist, school psychologist, school social worker, speech-language pathologist or supervisor of special education (282—Chapter 27 contains more information regarding licenses for service other than as a teacher).

[**ARC 8050C**, IAB 6/12/24, effective 7/17/24]

281—79.19(256) Clinical practice standard. The unit and its school, AEA and facility partners will provide clinical experiences that assist candidates in becoming successful practitioners in accordance with the following provisions.

79.19(1) The unit ensures that clinical experiences occurring in all locations are well sequenced, purposeful, supervised by appropriately qualified personnel, monitored by the unit and integrated into unit

standards. These expectations are shared with candidates, supervisors and cooperating professional educators.

79.19(2) Cooperating professional educators and college/university supervisors share responsibility for evaluating the candidate's achievement of unit standards. Clinical experiences are structured to have multiple performance-based assessments at key points within the program to demonstrate the candidate's attainment of unit standards.

79.19(3) Clinical experiences include all of the following criteria:

a. Take place in the context of providing high-quality instructional programs for students in a state-approved school, agency or educational facility;

b. Take place in educational settings that include diverse populations and students of different age groups;

c. Provide opportunities for candidates to observe and be observed by others and to engage in discussion and reflection on clinical practice;

d. Include minimum expectations and responsibilities for cooperating professional educators, school districts, accredited nonpublic schools or AEAs and for higher education supervising faculty members;

e. Include prescribed minimum expectations for involvement of candidates in relevant responsibilities directed toward the work for which they are preparing;

f. Involve candidates in communication and interaction with parents or guardians, community members, faculty and staff and cooperating professional educators in the school.

79.19(4) The institution annually delivers one or more workshops for cooperating professional educators to define the objectives of the field experience, review the responsibilities of the cooperating professional educators, build skills in coaching and mentoring and provide the cooperating professional educators other information and assistance the institution deems necessary. Each workshop incorporates feedback from participants and utilizes appropriate delivery strategies.

79.19(5) The institution shall enter into a written contract with the cooperating school districts that provide field experiences for candidates.

[**ARC 8050C**, IAB 6/12/24, effective 7/17/24]

281—79.20(256) Candidate knowledge, skills and dispositions standard. Candidates will demonstrate the content knowledge and the pedagogical and professional knowledge, skills and dispositions necessary to help all students learn in accordance with the following provisions:

79.20(1) Each professional educator program will define program standards (aligned with current national standards) and embed them in coursework and clinical experiences at a level appropriate for a novice professional educator.

79.20(2) Each candidate will demonstrate, within specific coursework and clinical experiences related to the study of human relations, cultural competency and diverse learners, that the candidate is prepared to work with students from diverse groups as defined in rule 281—79.2(256). The unit shall provide evidence that candidates have developed the ability to meet the needs of all learners, including:

a. Students from diverse ethnic, racial and socioeconomic backgrounds.

b. Students with disabilities. This will include preparation in developing and implementing individualized education programs and behavioral intervention plans, preparation for educating individuals in the least restrictive environment and identifying that environment, and strategies that address difficult and violent student behavior and improve academic engagement and achievement.

c. Students who are struggling with literacy, including those with dyslexia.

d. Students who are gifted and talented.

e. English learners.

f. Students who may be at risk of not succeeding in school. This preparation will include classroom management addressing high-risk behaviors, including behaviors related to substance use disorder.

[**ARC 8050C**, IAB 6/12/24, effective 7/17/24]

DIVISION VI
SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO
TEACHER INTERN PRACTITIONER PREPARATION PROGRAMS

281—79.21(256) General. Institutions interested in offering a teacher intern license will provide evidence of compliance with standards listed in this division, the faculty standards in rule 281—79.12(256) and the assessment standards in rule 281—79.13(256).
[**ARC 8050C**, IAB 6/12/24, effective 7/17/24]

281—79.22(256) Intern program governance and resources standard. Governance and resources adequately support the preparation of teacher intern candidates to meet professional, state and institutional standards. As a component of the program, the institution will work collaboratively with the local school district(s) or AEA. The program is required to meet the following standards in addition to the standards in rule 281—79.10(256).

79.22(1) The teacher intern preparation program and LEAs will work collaboratively to provide opportunities for teacher intern candidates to observe and be observed by others and to engage in discussion and reflection on clinical practice.

79.22(2) The LEA will provide the following:

a. An offer of employment to a teacher intern candidate in the program in one of the endorsements identified on the department's website at educate.iowa.gov/pk-12/educator-quality/practitioner-preparation;

b. A mentoring and induction program with a district-assigned mentor; and

c. An assurance that the LEA will not overload the intern with extracurricular duties.

79.22(3) The program has a clearly articulated process regarding candidate and intern performance, aligned with the institutional policy, for decisions impacting progress through the program. Program and school district policies for removal and replacement of interns from their internship assignments are clearly communicated to all candidates, school administrators and faculty.
[**ARC 8050C**, IAB 6/12/24, effective 7/17/24]

281—79.23(256) Intern license faculty standard. Intern program faculty standards are aligned and may be met through rule 281—79.12(256).
[**ARC 8050C**, IAB 6/12/24, effective 7/17/24]

281—79.24(256) Intern license program of study standard. A program's required coursework will include a minimum of 28 semester hours or equivalent designed to ensure that teacher intern candidates develop the dispositions, knowledge, and performance expectations of the InTASC standards embedded at a level appropriate for a beginning teacher.

79.24(1) Teacher intern candidates will develop the dispositions, knowledge and performance expectations of the Iowa teaching standards (aligned with InTASC standards) and the BOEE's Code of Professional Conduct and Ethics at a level appropriate for a beginning teacher.

79.24(2) All components of the program of study may only be initiated and completed after the candidate has completed a baccalaureate degree.

79.24(3) Coursework and competencies to be completed will include but not be limited to:

a. Understanding how learners grow and develop and implements developmentally appropriate and challenging learning experiences. This aligns with InTASC standard 1.

b. Demonstrating competence in content knowledge appropriate to the teaching position. This aligns with Iowa teaching standard 2 (281—subrule 83.4(2)) and with InTASC standards 4 and 5.

c. Demonstrating competence in classroom management. This aligns with Iowa teaching standard 6 (281—subrule 83.4(6)) and with InTASC standard 3.

d. Demonstrating competence in planning and preparing for instruction. This aligns with Iowa teaching standard 3 (281—subrule 83.4(3)) and with InTASC standard 7.

e. Using a variety of methods to monitor student learning. This aligns with Iowa teaching standard 5 (281—subrule 83.4(5)) and InTASC standard 6.

79.24(4) Additional coursework and competencies to be completed upon the recommendation for an initial teaching license will include:

a. Using strategies to deliver instruction that meets the multiple learning needs of students. This aligns with Iowa teaching standard 4 (281—subrule 83.4(4)) and with InTASC standards 2 and 8.

b. Engaging in professional growth. This aligns with Iowa teaching standard 7 (281—subrule 83.4(7)) and with InTASC standard 9.

c. Contributing to efforts to achieve district and building goals. This aligns with Iowa teaching standard 8 (281—subrule 83.4(8)) and with InTASC standard 10.

d. Demonstrating ability to enhance academic performance and support for implementation of the school district student achievement goals. This aligns with Iowa teaching standard 1 (281—subrule 83.4(1)).

79.24(5) Each teacher intern candidate will demonstrate knowledge about literacy and receives preparation in literacy. Each candidate will also develop and demonstrate the ability to integrate reading strategies into content area coursework.

79.24(6) Each teacher intern candidate will effectively demonstrate the ability to integrate technology into instruction to support student learning.

79.24(7) Each teacher intern candidate will receive dedicated coursework related to the study of human relations, cultural competency and diverse learners, such that the candidate is prepared to work with students from diverse groups as defined in rule 281—79.2(256). The unit shall provide evidence that teacher intern candidates have developed the ability to meet the needs of all learners, including:

a. Students from diverse ethnic, racial and socioeconomic backgrounds;

b. Students with disabilities. This will include preparation in developing and implementing individualized education programs and behavioral intervention plans, preparation for educating individuals in the least restrictive environment and identifying that environment, and strategies that address difficult and violent student behavior and improve academic engagement and achievement;

c. Students who are gifted and talented;

d. English learners; and

e. Students who may be at risk of not succeeding in school. This preparation will include classroom management addressing high-risk behaviors, including behaviors related to substance use disorder.

79.24(8) Each teacher intern candidate will demonstrate knowledge and application of the appropriate Iowa core standard to the teaching position.

79.24(9) Each teacher intern candidate will be engaged in field experiences that include opportunities for both observation of exemplary instruction and involvement in co-planning and co-teaching. Each teacher intern candidate will complete at least 50 hours of field experience. The institution will enter into a written contract with the cooperating school or district providing field experiences.

79.24(10) The teacher intern preparation program will provide a teacher intern seminar during the year leading to postintern licensure to support and extend coursework from the teacher intern content and facilitate teacher intern reflection.

79.24(11) In accordance with 281—Chapter 83, all teacher interns will be provided with a district-level mentor in addition to the program supervisor. The teacher intern will work under the teacher leader's supervision, including during co-teaching and planning time. The purpose of this district-level mentor is to provide coaching feedback dependent on the teacher intern's classroom experience. This district-level mentor shall not serve in an evaluative role. The district-level mentor shall complete specialized training for serving as a mentor as required in rule 281—83.3(284). The program will coordinate support between the teacher intern candidate's local district mentor and program supervisor.

79.24(12) The program shall provide an orientation for teacher intern candidates. The orientation will include but not be limited to:

a. Program goals and expectations;

b. Licensure and ethics provisions;

c. Support provided by the program; and

d. Support provided by the LEA or AEA.

79.24(13) Teacher intern faculty will provide teacher intern candidates with academic advising, feedback about the candidates' performance throughout the program and consultation opportunities.

79.24(14) Teacher intern faculty will provide regular supervision in teacher intern candidates' classrooms with additional supervision and assistance provided as needed.

[**ARC 8050C**, IAB 6/12/24, effective 7/17/24; **ARC 9104C**, IAB 4/16/25, effective 5/21/25]

281—79.25(256) Intern license assessment standard. Intern program assessment standards are met through rule 281—79.13(256), with the following exception: instead of subrule 79.13(3), teacher intern preparation programs will need to provide evidence that the provisions of subrule 79.13(7) have been met.

[**ARC 8050C**, IAB 6/12/24, effective 7/17/24]

These rules are intended to implement Iowa Code sections 256.7 and 256.16.

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CHAPTER 80
STANDARDS FOR PARAEDUCATOR PREPARATION PROGRAMS

Chapter rescission date pursuant to Iowa Code section 17A.7: 4/10/29

281—80.1(272) Definitions. The following definitions apply to this chapter:

"Authorized official" means an individual with the authority within the institution and the unit to monitor and ensure compliance with this chapter.

1. If the unit is within a community college, an institution of higher education under the state board of regents, or an accredited private institution of higher education, the official must maintain, oversee, and be responsible for the program within the unit.

2. If the unit is within an Iowa public school district or area education agency, the official must have one or more of the following credentials issued by the board of educational examiners: a teacher license (with the exception of a substitute teaching license), an administrator license, a professional services license, an elementary professional school counselor endorsement, a secondary professional school counselor endorsement, a school nurse endorsement, a special education support personnel authorization, or a statement of professional recognition. Other authorizations or certificates issued by the board of educational examiners do not satisfy the terms of this paragraph.

"Department" means the department of education.

"Director" means the director of the department of education.

"Diverse groups" means one or more groups of individuals possessing certain traits or characteristics, including but not limited to age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity, physical attributes, physical or mental ability or disability, ancestry, political party preference, political belief, socioeconomic status, or familial status.

"Institution" means an Iowa public school district, area education agency, community college, institution of higher education under the state board of regents or accredited private institution as defined in Iowa Code section 261.9(1) offering a paraeducator preparation program(s).

"Paraeducator candidate" means an individual who is enrolled in a paraeducator preparation program leading to certification as a generalist, a generalist with area(s) of concentration, or an advanced paraeducator.

"Paraeducator preparation program" means the program of paraeducator preparation leading to certification of paraeducators.

"State board" means Iowa state board of education.

"Unit" means the organizational entity within an institution with the responsibility of administering the paraeducator preparation program(s).

[**ARC 7661C**, IAB 3/6/24, effective 4/10/24]

281—80.2(272) Institutions affected. All institutions engaged in preparation of paraeducators and seeking state board approval of the institutions' paraeducator preparation program(s) shall meet the standards contained in this chapter.

[**ARC 7661C**, IAB 3/6/24, effective 4/10/24]

281—80.3(272) Criteria for Iowa paraeducator preparation programs. Each institution seeking approval of its paraeducator preparation program(s) will submit to the state board evidence of the extent to which the program meets the standards contained in this chapter. After the state board has approved an institution's paraeducator preparation program(s), students who complete the program(s) may be recommended by the authorized official of that institution for issuance of the appropriate certificate.

[**ARC 7661C**, IAB 3/6/24, effective 4/10/24]

281—80.4(272) Application; approval of programs. Approval of paraeducator preparation programs by the state board will be based on the recommendation of the director after study of the factual and evaluative evidence of record about each program in terms of the standards contained in this chapter. Approval, if granted, will be for a term of seven years; however, approval for a shorter term may be granted by the state

board if it determines conditions so warrant. If approval is not granted, the applicant institution will be advised concerning the areas in which improvement or changes appear to be essential for approval. In this case, the institution will be given the opportunity to present factual information concerning its programs at the next regularly scheduled meeting of the state board. The institution may also reapply at its discretion to provide evidence of the actions taken toward suggested improvement. Any application submitted under this rule is to be submitted by the authorized official.
[**ARC 7661C**, IAB 3/6/24, effective 4/10/24]

281—80.5(272) Periodic reports. In addition to reports pursuant to this chapter, the department may ask institutions placed on the approved programs list to make periodic reports necessary to keep records of each paraeducator preparation program up to date, to provide information necessary to carry out research studies relating to paraeducator preparation, and for any other purpose the department deems advisable. Any reports submitted under this rule are to be submitted by the authorized official.
[**ARC 7661C**, IAB 3/6/24, effective 4/10/24]

281—80.6(272) Reevaluation of paraeducator preparation programs. Each paraeducator preparation program will be reviewed and reevaluated at least once every seven years, at a shorter interval specified pursuant to rule 281—80.4(272), or at any time deemed necessary by the director. Recommendations as to whether to grant continued approval are governed by rule 281—80.4(272).
[**ARC 7661C**, IAB 3/6/24, effective 4/10/24]

281—80.7(272) Approval of program changes. Upon application by an institution, the director is authorized to approve minor additions to, or changes within, the institution's approved paraeducator preparation program. When an institution proposes revisions that exceed the primary scope of its program, the revisions become operative only after approval by the state board.
[**ARC 7661C**, IAB 3/6/24, effective 4/10/24]

281—80.8(272) Organizational and resource standards. Organization and resources adequately support the preparation of paraeducator candidates to enable them to meet state standards in accordance with the provisions of this rule.

80.8(1) The unit provides resources and support necessary for the delivery of a quality certification program, including resources to support a quality hands-on (clinical) experience and resources to support technological and instructional needs to enhance candidate learning.

80.8(2) The unit provides evidence of collaboration with members of the professional community, including the unit's advisory committee comprised of school administrators, classroom teachers, currently employed paraprofessionals and others, to design, deliver, and evaluate programs to prepare paraeducators.

80.8(3) The unit's use of staff in teaching roles is purposeful and managed to ensure integrity, quality, and continuity of the program(s).

80.8(4) The unit ensures that resources are equitable for all program components, regardless of delivery or location.
[**ARC 7661C**, IAB 3/6/24, effective 4/10/24]

281—80.9(272) Diversity standards.

80.9(1) The unit will ensure that the paraeducator preparation program meets the following diversity standards:

a. The unit provides an environment and experiences to paraeducator candidates to support candidate growth in knowledge, skills, and dispositions to help diverse groups of PK-12 students learn.

b. The unit's plans, policies, and practices document its efforts in establishing and maintaining a diverse staff, climate, and paraeducator candidate pool that strives to represent the diverse makeup of the community at large.

80.9(2) In addition to the provisions of rule 281—80.11(272), the unit is to gather data about its implementation of this rule, use those data to make program improvements, and share those data and improvements with the schools and communities the unit serves.
[**ARC 7661C**, IAB 3/6/24, effective 4/10/24]

281—80.10(272) Faculty standards. Unit staff qualifications and performance facilitate the unit's role in the preparation of a professional paraeducator in accordance with the provisions of this rule.

80.10(1) The unit documents the alignment of teaching duties for each faculty member with that member's preparation, knowledge, experiences, and skills appropriate for training paraeducators to serve in a school setting.

80.10(2) The institution holds unit staff accountable for teaching the critical concepts and principles of the discipline.

[**ARC 7661C**, IAB 3/6/24, effective 4/10/24]

281—80.11(272) Program assessment and evaluation standards. The unit's assessment system will appropriately monitor individual candidate performance and use that data in concert with other program information to improve the unit and its programs in accordance with the provisions of this rule.

80.11(1) Each paraeducator candidate's knowledge and skills will be measured against state certification standards adopted by the board of educational examiners under Iowa Code section 272.12 and the unit's learning outcomes for any certificate for which the unit may recommend the candidate.

80.11(2) Programs will submit curriculum exhibits for approval by the department.

80.11(3) The unit will establish a standard of satisfactory performance of paraeducator candidates, which will comply with the following paragraphs:

a. The unit uses measures for candidate assessment that are fair, reliable, and valid.

b. The unit assesses candidates on their demonstration and attainment of unit standards.

c. The unit uses a variety of assessment measures for assessment of candidates on each unit standard.

d. The unit provides candidates with formative feedback on their progress toward attainment of unit standards.

80.11(4) The unit will conduct a survey of graduates and their employers to ensure that its graduates are well prepared for their assigned roles.

80.11(5) The unit will have a clearly defined, cohesive assessment system and regularly review, analyze, and revise its assessment practices.

80.11(6) The unit will collect and analyze aggregated candidate and program data, use those data to make program improvements, and share those data and improvements with stakeholders on a regular basis.

80.11(7) An annual report including a composite of evaluative data collected by the unit will be submitted to the department by September 30 of each year.

80.11(8) When it publicly reports data, the unit will comply with all applicable privacy laws, including the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g.

[**ARC 7661C**, IAB 3/6/24, effective 4/10/24]

281—80.12(272) Clinical practice standards. The unit and its school partners will provide clinical experience opportunities that assist candidates in becoming successful paraeducators in accordance with the provisions of this rule.

80.12(1) Paraeducator clinical experiences support learning in the context in which paraeducators will practice.

80.12(2) Paraeducator clinical experiences include the following:

a. A minimum of ten hours of experience in a state-approved school or educational facility under the supervision of a licensed educator.

b. Opportunities for paraeducator candidates to observe and be observed by others in the application of skills and knowledge.

[**ARC 7661C**, IAB 3/6/24, effective 4/10/24]

These rules are intended to implement Iowa Code section 256.7(22).

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CHAPTER 81
STANDARDS FOR SCHOOL BUSINESS OFFICIAL PREPARATION PROGRAMS

Chapter rescission date pursuant to Iowa Code section 17A.7: 5/22/29

281—81.1(256) Definitions.

"Area education agency" or *"AEA"* means a regional service agency that provides school improvement services for students, families, teachers, administrators, and the community.

"Department" means the department of education.

"Director" means the director of the department of education.

"Institution" means a public or private institution of higher education, an AEA, or a professional organization offering a school business official preparation program(s) and renewal credits.

"Novice" means an individual in a school business official position who has no previous experience in that position or who is newly authorized by the board of educational examiners.

"School business official candidates" means individuals who are enrolled in school business official preparation programs leading to authorization by the board of educational examiners to practice as school business officials.

"School business official preparation programs" means the programs of school business official preparation that lead to authorization to practice as a school business official.

"State board" means the Iowa state board of education.

[**ARC 7799C**, IAB 4/17/24, effective 5/22/24]

281—81.2(256) Institutions eligible to provide a school business official preparation program. Institutions of public and private higher education, AEAs, and professional organizations engaged in the preparation of school business officials shall meet the standards contained in this chapter to obtain and maintain state board approval of their programs. Each institution that seeks state board approval of its programs for school business official preparation will file evidence of the extent to which each program meets the standards contained in this chapter. Such evidence will be demonstrated by means of a written self-evaluation report and an evaluation conducted by the department and prepared using a template developed by the department. Only approved programs may recommend candidates for school business official authorization.

[**ARC 7799C**, IAB 4/17/24, effective 5/22/24]

281—81.3(256) Approval of programs. Approval by the state board of an institution's school business official preparation program will be based on the recommendation of the director after study of the factual and evaluative evidence on record about each program in terms of the standards contained in this chapter.

81.3(1) Approval, if granted, is for a term of seven years; however, approval for a lesser term may be granted by the state board if it determines conditions so warrant.

81.3(2) If approval is not granted, the applicant institution will be advised of the areas in which improvement or changes appear to be essential for approval. In this case, the institution will be given the opportunity to present information concerning its programs at a regularly scheduled meeting of the state board, no later than three months following the board's initial decision.

81.3(3) Programs may be granted conditional approval upon review of appropriate documentation. In such an instance, the program will receive a full review after one year or, in the case of a new program, at the point at which candidates demonstrate mastery of standards for authorization.

81.3(4) The standards herein apply regardless of delivery mode of instruction.

[**ARC 7799C**, IAB 4/17/24, effective 5/22/24]

281—81.4(256) Governance and resources standard. An institution's governance structure and resources will adequately support the preparation of school business official candidates to meet professional, state, and institutional standards in accordance with the following provisions:

81.4(1) A clearly understood governance structure provides guidance and support for the school business official preparation program.

81.4(2) Procedures for an appeals process for candidates are clearly communicated and provided to all candidates.

81.4(3) The program administers a comprehensive evaluation system designed to enhance the teaching competence and intellectual vitality of the professional educational institution.

81.4(4) Institutional commitment to the program includes financial resources, facilities, appropriate educational materials, and equipment to ensure the fulfillment of the institution's and program's missions and the delivery of quality programs.

81.4(5) The institution provides sufficient instructors and administrative, clerical, and technical staff to plan and deliver a quality school business official preparation program.

81.4(6) Resources are available to support professional development opportunities for instructors.

81.4(7) Resources are available to support technological and instructional needs to enhance candidate learning.

[**ARC 7799C**, IAB 4/17/24, effective 5/22/24]

281—81.5(256) Instructor standard. Instructor qualifications and performance will facilitate the professional development of school business official candidates in accordance with the following provisions:

81.5(1) Instructors are adequately prepared for assigned responsibilities and have had experiences relative to the curricula the instructors are teaching and in situations similar to those for which the school business official candidates are being prepared. Instructors have experience and adequate preparation in effective methods for any mode of program delivery in which the instructors are assigned responsibilities.

81.5(2) Instructors instruct and model best practices in teaching, including the assessment of the instructors' own effectiveness as it relates to candidate performance and engaging in professional development on adult teaching and learning.

81.5(3) Instructors are engaged in professional development that relates to school business official preparation.

81.5(4) Instructors collaborate regularly and in significant ways with colleagues in the institution and other institutions, schools, the department, and professional associations as well as with community representatives.

[**ARC 7799C**, IAB 4/17/24, effective 5/22/24]

281—81.6(256) Assessment system and institution evaluation standard. The institution's assessment system will appropriately monitor individual candidate performance and use the performance data in concert with other information to evaluate and improve the institution and its programs.

81.6(1) *Program assessment system.*

a. The program utilizes a clearly defined management system for the collection, analysis, and use of assessment data.

b. The institution clearly documents candidates' attainment of the program standards.

c. The institution demonstrates the propriety, utility, accuracy and fairness of both the overall assessment system and the instruments used and provides scoring rubrics or other criteria used in evaluation instruments.

d. The institution documents the quality of programs through the collective presentation of assessment data related to performance of school business official candidates. Documentation will include the following:

(1) Data collected throughout the program, including data from all delivery models;

(2) Evidence of evaluative data collected on a biennial basis from school business officials who work with the program's candidates; and

(3) Evidence of evaluative data collected on a biennial basis by the institution through follow-up studies of graduates and their employers.

e. The institution explains the process for reviewing and revising the assessment system.

f. The institution demonstrates how the information gathered by the institution and from the performance assessment system for candidates is shared with instructors and other stakeholders and used for program improvement.

81.6(2) *Performance assessment system for candidates.*

a. The performance assessment system for candidates is an integral part of the institution's planning and evaluation system.

b. The performance assessment system for candidates includes a coherent, sequential assessment system for individual school business official candidates. The assessment system is shared with instructors to provide guidance for course and program improvement. The assessment system also provides ongoing feedback to school business official candidates about their achievement of program standards and guidance for reflection and improvement. Data are drawn from multiple formative and summative assessments of institutional evaluation of the candidates' content knowledge and professional knowledge and from application of this knowledge to the necessary skills and attributes appropriate for a novice school business official.

c. School business official candidate performance is assessed at the same standard regardless of the place or way the program is delivered.

81.6(3) *Survey of graduates.* The department periodically conducts a survey of schools, agencies, or facilities that employ licensed graduates of approved programs to ensure that the graduates' needs are adequately met by their programs and by the approval process herein.

[**ARC 7799C**, IAB 4/17/24, effective 5/22/24]

281—81.7(256) School business official candidate knowledge and skills standards and criteria. School business officials will demonstrate content knowledge, professional knowledge, and skills in accordance with the following standards and supporting criteria. In addition, each school business official candidate shall meet all requirements established by the board of educational examiners for an authorization for which the candidate is recommended. Programs will submit curriculum exhibit sheets for approval by the board of educational examiners and the department.

81.7(1) *Standard 1.* Each school business official demonstrates an understanding of Uniform Financial Accounting, governmental generally accepted accounting principles (GAAP) accounting, and statutory concepts. The school business official:

a. Is responsible for understanding and adhering to the Uniform Financial Accounting Manual as effective on February 7, 2024, and the current, accepted chart of accounts.

(1) Codes all salaries and benefits to the appropriate function, program, and project (if applicable) on a monthly basis;

(2) Ensures revenues, expenditures, and expenses are appropriately coded to the correct account monthly; and

(3) Ensures balance sheet items are properly coded as directed.

b. Understands and ensures implementation of state and federal law related to employment, personnel, and payroll.

c. Understands all projects and grants for which the district receives funding.

d. Understands the certified budgeting process and the content and purpose of each section of the aid and levy worksheet as well as other certified budget forms.

e. Understands the concept of spending authority.

81.7(2) *Standard 2.* Each school business official demonstrates the ability to implement effective internal controls and accounting processes. The school business official:

a. Provides data monthly in sufficient detail as to be informative and useful for decision makers and stakeholders in providing educational and co- and extracurricular programs.

b. Ensures delivery, monthly, of a statement of receipts, disbursements, and amount on hand for every fund.

c. Ensures reconciliation of bank statements monthly.

d. Consistently follows the procedure by which products and services may be purchased (state bidding, purchase orders, and purchasing processes).

e. Ensures that an annual line-item budget that aligns with the district-certified budget revenues and expenditures is completed in a timely manner for each fund.

f. Maintains an itemized statement no more than five years old of the appraised value of all buildings and other capital assets and a list of historical costs.

g. Invests moneys not needed as authorized under the Iowa Code and district policy.

h. Uses only depositories approved by the local school board.

i. Makes payments only to the person entitled to the payment and only for verified bills.

j. Understands and implements the various mechanisms by which to borrow money as well as the appropriate account coding and repayment processes.

k. Is able to produce budget forecasts and analyses of spending.

l. Is capable of preparing employee collective bargaining costing models and estimates.

81.7(3) *Standard 3.* Each school business official demonstrates an understanding of and compliance with federal, state, and local reporting requirements. The school business official:

a. Produces for the local school board periodic reports reflecting a financial statement in relation to spending authority and published budget control lines.

b. Ensures that an accurate and separate account of each fund is maintained.

c. Ensures the filing of all quarterly and annual payroll taxes and reports in a timely fashion, including but not limited to IRS Forms 941, 1099, W-2, and W-3 and relevant U.S. Office of Management and Budget (OMB) circulars.

d. Files with the department of education, the department of management, and the state auditor all required reports in a timely fashion.

e. Understands the local collective bargaining agreement as well as nonemployee contracts.

81.7(4) *Standard 4.* Each school business official demonstrates compliance with applicable federal, state, and local laws. The school business official:

a. Understands the district board's policies and procedures and effectively implements applicable policies and procedures.

b. Implements effective records management processes and procedures.

c. Has a working knowledge of laws applicable to school districts and area education agencies.

d. Understands and implements employment laws.

e. Understands and implements bidding and construction laws.

f. Understands and implements pension processes, including but not limited to retirement plans, IPERS, and 403B investments.

g. Ensures that the school board president's and secretary's signatures are on all checks and that the school board president's signature is on all contracts.

h. Ensures that billing for all tuition items is completed on the current prescribed timeline.

i. Manages scheduling and preparation for the local audit, including any request for proposals for audit services as applicable.

81.7(5) *Standard 5.* Each school business official demonstrates competence in technology appropriate to the school business official position. The school business official:

a. Effectively manages an integrated accounting system for fund accounting by the district and assesses technology needs for fiscal management issues.

b. Maintains all funds in one integrated accounting system.

c. Displays a working knowledge of other software programs, if required to be used by the school business official.

d. Is able to use word processing, database, and spreadsheet documents effectively to meet the needs of the district.

e. Displays competence in using the department's secure website for reporting purposes.

f. Is able to upload the chart of accounts and understands the relationship of the chart of accounts to the other reports, including but not limited to the special education supplement, the annual report on use of sales tax revenue, and the annual transportation report. This duty includes testing the functionality of accounts used for accuracy. The testing is carried out in a manner that allows for identification of issues prior to the actual submission deadline.

81.7(6) *Standard 6.* Each school business official demonstrates appropriate personal skills. The school business official:

a. Is an effective communicator with all stakeholders, including but not limited to colleagues, policy makers, community members, and parents.

b. Works effectively with employees and stakeholders.

c. Ensures the timely flow of information.

d. Maintains confidentiality with personal, restricted and embargoed information.

e. Is able to analyze, evaluate, and solve problems.

f. Timely and accurately performs the duties of a school business official.

g. Maintains an environment of mutual respect, rapport, and fairness.

h. Participates in and contributes to a school culture that focuses on improved student learning.

81.7(7) *Standard 7.* Each school business official engages in professional growth. The school business official:

a. Stays current with accounting technologies and the department's financial reporting system.

b. Demonstrates habits and skills of continuous inquiry and learning.

c. Works collaboratively to improve professional practice.

d. Applies research, knowledge, and skills acquired from professional development opportunities to improve practice.

e. Engages with administration on an annual review of the effectiveness of district accounting and reporting processes and on an individual performance evaluation consistent with district policy.

f. If the school business official has not earned full authorization as a school business official, participates in the school business official mentoring program to the extent necessary.

81.7(8) *Standard 8.* Each school business official fulfills professional responsibilities established by the school district. The school business official:

a. Adheres to school board policies, district procedures, and contractual obligations and ensures that applicable district policies are not in conflict with state law.

b. Demonstrates professional and ethical conduct as defined by state law and district policy.

c. Contributes to efforts to achieve district goals.

d. Is able to contribute to cost/benefit analyses.

e. Participates in the board of educational examiners ethics program.

f. Follows the code of professional conduct and ethics and the rights and responsibilities described in 282—Chapters 25 and 26.

81.7(9) *Standard 9.* If a school business official is also employed as the secretary or treasurer of the school board, the school business official:

a. Takes the oath of office within ten days following appointment.

b. Files a bond and ensures the level of coverage is adequate.

c. Holds office until a successor has been appointed and qualified.

d. Publishes minutes, bills, and salaries on a timely basis.

e. Ensures that the department, the county auditor, and the treasurer are informed in a timely manner of the names and addresses for board officers as well as any changes therein.

f. Files and preserves copies of all required reports and all papers transmitted pertaining to the business of the school corporation, including all certificates, reports, and proofs related to compulsory education.

g. Maintains separate books for minutes and elections and ensures that the records are complete.

h. Delivers all claims to the board for audit and allowance.

[**ARC 7799C**, IAB 4/17/24, effective 5/22/24]

281—81.8(256) School business official mentoring program. The one-year mentoring program and its partners will assist candidates in becoming successful school business officials in accordance with the following provisions. The candidate is to be employed as a school business official to be eligible to participate in the mentoring program.

81.8(1) Candidates admitted to a school business official preparation program will participate in the mentoring program. All hours spent in the mentoring program are outside of the nine semester hours required in the program.

81.8(2) Each school business official preparation program will inform all candidates of the following minimum expectations of the candidates as mentees:

a. Participation in weekly conversations with the mentee's mentor, including a review of work assignments.

b. Maintenance of a record of contacts with the mentor and submission of the record to the program. A template will be provided by the program.

c. Completion of surveys to assist with program evaluation.

d. Communication with the program if the relationship with the mentee's mentor is not meeting the needs or expectations of the mentee.

e. Full participation in the mentoring program throughout the one-year period.

81.8(3) Each school business official preparation program will inform all program candidate mentors of the following minimum expectations:

a. Contacting the mentee on a weekly basis.

b. Completing surveys to assist with program evaluation.

c. Informing the program if the relationship with the mentee is not meeting expectations.

d. Maintaining confidentiality of the interactions between mentor and mentee.

e. Supporting the mentee throughout the one-year period.

81.8(4) The institution will offer one or more workshops annually for all cooperating mentors to define the objectives of the mentoring program, review the responsibilities of the cooperating mentors, and provide the cooperating mentors other information and assistance the institution deems necessary. The workshops will utilize delivery strategies identified as appropriate for staff development and reflect information gathered through feedback from workshop participants.

[**ARC 7799C**, IAB 4/17/24, effective 5/22/24]

281—81.9(256) Monitoring.

81.9(1) *Reports to the department.* Upon request by the department, programs will make periodic reports that include basic information necessary to maintain up-to-date records of each school business official preparation program and to carry out research studies relating to school business official preparation.

81.9(2) *Reevaluation of school business official preparation programs.* Every seven years or at any time deemed necessary by the director, an institution will file a written self-evaluation of its school business official preparation program. Any action for continued approval or rescission of approval is to be approved by the state board.

81.9(3) *Approval of program changes.* Upon application by an institution, the director is authorized to approve minor additions to or changes within the curriculum of an institution's approved school business official preparation program. When an institution proposes a revision that exceeds the primary scope of its programs, the revision shall become operative only after approval by the state board.

[**ARC 7799C**, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code section 256.7.

[Filed ARC 9474B (Notice ARC 9379B, IAB 2/23/11), IAB 4/20/11, effective 5/25/11]

[Filed ARC 0479C (Notice ARC 0112C, IAB 5/2/12), IAB 12/12/12, effective 1/16/13]

[Filed ARC 7799C (Notice ARC 7595C, IAB 2/7/24), IAB 4/17/24, effective 5/22/24]

CHAPTER 82
STANDARDS FOR SCHOOL ADMINISTRATION MANAGER PROGRAMS

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/31/29

281—82.1(272) Definitions.

"Coach" means a person who provides regularly scheduled coaching visits to SAM/administrator teams.

"Department" means the department of education.

"Director" means the director of the department of education.

"Organization" means a professional organization offering an approved training program and support for SAMs.

"SAM" or *"school administration manager"* means a person or persons who are authorized to assist a school administrator in performing noninstructional administrative duties.

"School administration manager program" means a program of SAM training and preparation that leads to authorization to practice as a school administration manager.

"State board" means the Iowa state board of education.

"Trainer" means a person with responsibility for providing approved training for school administration managers.

[**ARC 7419C**, IAB 12/27/23, effective 1/31/24]

281—82.2(272) Organizations eligible to provide a school administration manager training program. Approved professional organizations engaged in the preparation and training of SAMs that meet the standards contained in this chapter may obtain and maintain state board approval of the organizations' training programs for SAMs. Only approved programs may recommend candidates for SAM authorization.

[**ARC 7419C**, IAB 12/27/23, effective 1/31/24]

281—82.3(272) Approval of training programs. The state board's approval of an organization's training program is based on the recommendation of the director after study of the evidence about the program in terms of the standards contained in this chapter. The department will seek maximum flexibility in the design of systems allowed to meet the goals of this program.

82.3(1) Approval, if granted, will be for a term of seven years; however, approval for a lesser term may be granted by the state board if it determines conditions so warrant.

82.3(2) If approval is not granted, the applicant organization will be advised concerning the areas in which improvement or changes appear to be essential for approval. In this case, the organization will be given the opportunity to present factual information concerning its program at a regularly scheduled meeting of the state board, no later than three months following the board's decision.

82.3(3) Programs may be granted conditional approval upon review of appropriate documentation. In such an instance, the program will receive a full review after one year or, in the case of a new program, at the point at which candidates demonstrate mastery of standards for authorization.

82.3(4) The standards herein apply regardless of delivery mode of the training.

82.3(5) All programs in existence prior to July 31, 2013, are deemed to meet program standards without having to submit an application for review.

[**ARC 7419C**, IAB 12/27/23, effective 1/31/24]

281—82.4(272) Governance and resources standard. To be an approvable organization, an organization's governance structure and resources adequately support the training of SAMs to meet professional, state, and organizational standards in accordance with the following provisions:

82.4(1) The organization provides sufficient trainers, coaches, and administrative, clerical, and technical staff to plan and deliver a quality SAM program.

82.4(2) Resources are available to support professional development opportunities for trainers of SAMs.

82.4(3) Resources are available to support technological and instructional needs to enhance trainer and authorized SAM learning.
[**ARC 7419C**, IAB 12/27/23, effective 1/31/24]

281—82.5(272) Trainer and coach standard. An approved organization's trainer and coach qualifications and performance facilitate the professional development of SAMs.
[**ARC 7419C**, IAB 12/27/23, effective 1/31/24]

281—82.6(272) Assessment system and organization evaluation standard. An organization's assessment system monitors individual candidate performance and uses the performance data in concert with other information to evaluate and improve the organization and its program. The actual annual evaluation of each SAM is performed by the administrator or the administrator's designee, and the evaluation is conducted in accordance with the standards set forth in rule 281—82.7(272). The organization will annually report data to the department, as determined by the department. The department will periodically conduct a survey of schools or facilities that employ authorized SAMs to ensure that the schools' and facilities' needs are adequately met by the programs and the approval process herein.
[**ARC 7419C**, IAB 12/27/23, effective 1/31/24]

281—82.7(272) School administration manager knowledge and skills standards and criteria. SAMs will demonstrate the content knowledge and professional knowledge and skills in accordance with the following standards and supporting criteria.

82.7(1) *Standard 1.* Each SAM will demonstrate an understanding of the instructional and management codes and how to best support the SAM's administrator in instructional leadership. If a SAM is also employed as a secretary or administrative assistant, the SAM's job responsibilities will be modified as established by the school district.

82.7(2) *Standard 2.* Each SAM will attend an approved training program at the onset of the SAM's hire. The training for the SAM and administrator will include the following:

a. Background information on SAMs.
b. Understanding of the instructional and management descriptors.
c. Introduction and practice using approved time-tracking software.
d. First responders and delegation responsibilities.
e. Job responsibilities and variations.
f. Daily meeting protocols.
g. Training of office staff on communication with others.
h. Use of reflective questions.
i. Understanding of conflict resolution skills.
j. Action planning for building implementation and timelines.
k. SAM/administrator rubric process.

82.7(3) *Standard 3.* Each SAM will demonstrate competence in technology appropriate to the SAM's position.

82.7(4) *Standard 4.* Each SAM will demonstrate appropriate personal skills. The SAM:

a. Is an effective communicator with all stakeholders, including but not limited to colleagues, community members, parents, and students.
b. Works effectively with employees, students, and other stakeholders.
c. Maintains confidentiality when dealing with student, parent, and staff issues.
d. Clearly understands the administrator's philosophy of behavior expectations and consequences.
e. Maintains an environment of mutual respect, rapport, and fairness.
f. Participates in and contributes to a school culture that focuses on change in teacher practices and improved student learning by supporting the administrator in the administrator's instructional leadership role.

82.7(5) *Standard 5.* Each SAM will fulfill professional responsibilities as established by the SAM's school district.

82.7(6) *Standard 6.* Each SAM will engage in professional growth that continuously improves the SAM's skills of professional inquiry and learning.
[**ARC 7419C**, IAB 12/27/23, effective 1/31/24]

281—82.8(272) Monitoring and continued approval. Upon request by the department, programs will make periodic reports, which include basic information necessary to maintain up-to-date data of the SAM program and to carry out research studies relating to SAMs. Every seven years or sooner if deemed necessary by the director, an organization will file a written self-evaluation of its SAM program. Any action for continued approval or denial of approval will be approved by the state board.
[**ARC 7419C**, IAB 12/27/23, effective 1/31/24]

281—82.9(272) Approval of program changes and flexibility of programs. Upon application by an organization, the director may approve minor additions to or changes within the organization's approved SAM program. When an organization proposes a revision that exceeds the primary scope of the organization's program, the revision becomes operative only after approval by the state board. Districts may have a variety of programs and job descriptions that meet the standards of a SAM system but must receive permission to make changes to those programs in the manner prescribed. The department will seek maximum flexibility in systems allowed to meet the goals of this program. Essential components of any approved SAM program include readiness, data collection of administrator time, ongoing training of the program administrator, use of time-tracking software and ongoing coaching for participants in the program.
[**ARC 7419C**, IAB 12/27/23, effective 1/31/24]

These rules are intended to implement Iowa Code section 256.7(30)*"b."*

[Filed ARC 0813C (Notice ARC 0694C, IAB 4/17/13), IAB 6/26/13, effective 7/31/13]
[Filed ARC 7419C (Notice ARC 7096C, IAB 10/4/23), IAB 12/27/23, effective 1/31/24]

CHAPTER 83
TEACHER AND ADMINISTRATOR QUALITY PROGRAMS

Chapter rescission date pursuant to Iowa Code section 17A.7: 4/10/29

DIVISION I
GENERAL STANDARDS APPLICABLE TO BOTH ADMINISTRATOR AND TEACHER QUALITY PROGRAMS

281—83.1(284,284A) Definitions. For the purpose of these rules, the following definitions apply:

"Administrator" or *"school leader"* means the same as "administrator" as defined in Iowa Code section 284A.2(1).

"Beginning administrator" means the same as defined in Iowa Code section 284A.2(2).

"Beginning teacher" means the same as defined in Iowa Code section 284.2(1). For purposes of the beginning teacher mentoring and induction program created pursuant to Iowa Code section 284.5 or in an approved career paths, leadership roles, and compensation framework or approved comparable system as provided in Iowa Code section 284.15, "beginning teacher" also includes preschool teachers who are licensed by the board of educational examiners under Iowa Code chapter 272 and are employed by a school district or area education agency.

"Comprehensive evaluation" means, with respect to a beginning teacher, the same as defined in Iowa Code section 284.2(2). With respect to a beginning administrator, "comprehensive evaluation" means the same as defined in Iowa Code section 284A.2(3).

"Department" means the department of education.

"Director" means the director of the department of education.

"District facilitator" means an individual in Iowa who serves as a coordinator for a district mentoring and induction program.

"Evaluator" means the same as defined in Iowa Code section 284.2(5).

"Intensive assistance" means the provision of organizational support and technical assistance to teachers, other than beginning teachers, for the remediation of identified teaching and classroom management concerns for a period not to exceed 12 months.

"Leadership standards" means the Iowa standards for school administrators adopted pursuant to Iowa Code section 256.7(27).

"Mentor" means, with respect to a beginning teacher, the same as defined in Iowa Code section 284.2(7). With respect to a beginning administrator, "mentor" means the same as defined in Iowa Code section 284A.2(7).

"Performance review" means the same as defined in Iowa Code section 284.2(8).

"School board" means the same as defined in Iowa Code section 284.2(9).

"State board" means the state board of education.

"Teacher" means the same as defined in Iowa Code section 284.2(11).

[**ARC 7662C**, IAB 3/6/24, effective 4/10/24]

DIVISION II
SPECIFIC STANDARDS APPLICABLE TO TEACHER QUALITY PROGRAMS

281—83.2(284) Mentoring and induction program for beginning teachers.

83.2(1) *Option one: beginning teacher mentoring and induction program.* Completion of a beginning teacher mentoring and induction program is one manner in which a beginning teacher may satisfy Iowa Code section 272.28(1).

a. General.

(1) School districts and area education agencies may provide a beginning teacher mentoring and induction program for all beginning teachers as specified in Iowa Code section 284.5.

(2) A school district or area education agency may offer a teacher a third year of participation in the program if, after conducting a comprehensive evaluation, the school district or area education agency determines that the teacher is likely to successfully complete the mentoring and induction program by meeting the Iowa teaching standards by the end of the third year of eligibility. The third year of eligibility is offered at the employing district's or area education agency's expense. A teacher granted a third year of eligibility shall, in cooperation with the teacher's evaluator, develop a plan to meet the Iowa teaching standards and district or area education agency career expectations. This plan will be implemented by the teacher and supported through the district's or area education agency's mentoring and induction program. The school district or area education agency will notify the board of educational examiners that the teacher will participate in a third year of the school district's program. The teacher will undergo a comprehensive evaluation at the end of the third year. For purposes of comprehensive evaluations for beginning teachers, including the comprehensive evaluation necessary for the beginning teacher to progress to career teacher, the Iowa teaching standards and criteria are as described in rule 281—83.3(284). A school district or area education agency will participate in state program evaluations.

b. Plan. Each school district or area education agency that offers a beginning teacher mentoring and induction program shall develop a sequential two-year beginning teacher mentoring and induction plan based on the Iowa teaching standards. A school district or area education agency will have the board adopt a beginning teacher mentoring and induction program plan and written procedures for the program. At the board's discretion, the district or area education agency may choose to use or revise the model plan provided by the area education agency or develop a plan locally. The components of a district's or area education agency's beginning teacher mentoring and induction program shall include, but are not limited to, the following:

(1) Goals for the program.

(2) A process for the selection of mentors.

(3) A mentor training process that:

1. Is consistent with effective staff development practices and adult professional needs to include skills needed for teaching, demonstration, and coaching.

2. Addresses mentor needs, indicating a clear understanding of the role of the mentor.

3. Results in the mentor's understanding of the personal and professional needs of new teachers.

4. Provides the mentor with an understanding of the district expectations for beginning teacher competencies based on the Iowa teaching standards.

5. Facilitates the mentor's ability to provide guidance and support to new teachers.

(4) A supportive organizational structure for beginning teachers that will include:

1. Activities that provide access and opportunities for interaction between a mentor and a beginning teacher that at a minimum provide:

- Released time for a mentor and a beginning teacher to plan;
- The demonstration of classroom practices;
- The observation of teaching; and
- Feedback.

2. A selection process for who will be in the mentor/beginning teacher partnership.

3. Roles and responsibilities of the mentor.

(5) An evaluation process for the program, which includes:

1. An evaluation of the district and area education agency program goals,

2. An evaluation process that provides for the minor and major program revisions, and

3. A process for how information about the program will be provided to interested stakeholders.

(6) The process for dissolving mentor and beginning teacher partnerships.

(7) A plan that reflects the needs of the beginning teacher employed by the district or area education agency.

(8) Activities designed to support beginning teachers by:

1. Developing and enhancing competencies for the Iowa teaching standards, and

2. Providing research-based instructional strategies.

(9) Funds, if appropriated by the general assembly, received by a school district or area education agency from the beginning teacher mentoring and induction program will be used for any or all of the following purposes: to pay any applicable costs of the employer's share of contributions to federal social security and the Iowa public employees' retirement system for a pension and annuity retirement system established under Iowa Code chapter 294 for such amounts paid by the district or area education agency. These funds are miscellaneous funds or are considered encumbered. A school district or area education agency will maintain a separate listing within its budget for payments received and expenditures made for this program. Funds that remain unencumbered or unobligated at the end of the fiscal year will not revert but will remain available for expenditure for the purposes of the program until the close of the succeeding fiscal year.

83.2(2) *Option two: teacher leadership and compensation system.*

a. General. Two years of successful teaching experience in a school district with an approved career paths, leadership roles, and compensation framework or approved comparable system as provided in Iowa Code section 284.15 ("framework for beginning teachers" for purposes of this rule) is one manner in which a beginning teacher may satisfy Iowa Code section 272.28(1).

b. Participation. School districts may provide an approved career paths, leadership roles, and compensation framework or approved comparable system as provided in Iowa Code section 284.15. A beginning teacher, as defined in this chapter, shall be informed by the school district, prior to the beginning teacher's participation in a framework for beginning teachers, of the Iowa teaching standards and criteria upon which the beginning teacher will be evaluated and of the evaluation process utilized by the school district. The beginning teacher will be supported by the teacher leadership and compensation program as defined in part 4 of the submitted plan. The beginning teacher will be comprehensively evaluated by the end of the beginning teacher's second year of teaching to determine whether the teacher meets expectations to move to the career level. The school district will recommend for a standard license a beginning teacher who has successfully met the Iowa teaching standards as determined by a comprehensive evaluation.

(1) If a beginning teacher who is participating in a framework for beginning teachers leaves the employ of a school district prior to completion of the framework, the school district or area education agency subsequently hiring the beginning teacher will credit the beginning teacher with the time earned in such a framework prior to the subsequent hiring.

(2) A school district may offer a teacher a third year of participation in a framework for beginning teachers if, after conducting a comprehensive evaluation, the school district determines that the teacher is likely to successfully meet the Iowa teaching standards by the end of the third year of eligibility. The third year of eligibility is offered at the employing district's expense. A teacher granted a third year of eligibility shall, in cooperation with the teacher's evaluator, develop a plan to meet the Iowa teaching standards and district or area education agency career expectations. This plan will be implemented by the teacher and supported through the district's framework for beginning teachers. The school district shall notify the board of educational examiners that the teacher will participate in a third year of the school district's framework for beginning teachers. The teacher is to undergo a comprehensive evaluation at the end of the third year.

(3) For purposes of comprehensive evaluations for beginning teachers, including the comprehensive evaluation necessary for the beginning teacher to progress to career teacher, the Iowa teaching standards and criteria are as described in rule 281—83.3(284). A school district shall participate in state program evaluations.

c. Plan assurances. Each school district that offers a framework under Iowa Code sections 284.15 through 284.17 and uses it for purposes of meeting the school district's obligations to beginning teachers is to provide assurances to the department that the district's framework for beginning teachers satisfies those Iowa Code sections and attends to the Iowa teaching standards and criteria described in rule 281—83.3(284).

d. Inapplicability to area education agencies. This subrule is not applicable to area education agencies. Only subrule 83.2(1) is applicable to area education agencies; however, a teacher employed by an area education agency may be included in a framework or comparable system established by a school district if the area education agency and the school district enter into a contract for such purpose.

[**ARC 7662C**, IAB 3/6/24, effective 4/10/24]

281—83.3(284) Iowa teaching standards and criteria. Rule 281—83.4(284), as in effect on April 9, 2024, remains applicable until July 1, 2024. The Iowa teaching standards and supporting criteria provide Iowa school districts and area education agencies with a consistent representation of the complexity and the possibilities of quality teaching. The standards serve as the basis for comprehensive evaluations of teachers and as a basis for professional development plans. Each standard with supporting criteria is outlined as follows:

83.3(1) Demonstrates ability to enhance academic performance and support for and implementation of the school district's student achievement goals.

a. The teacher:

(1) Provides multiple forms of evidence of student learning and growth to students, families, and staff.

(2) Implements strategies supporting student, building, and district goals.

(3) Uses student performance data as a guide for decision making.

(4) Accepts and demonstrates responsibility for creating a classroom culture that supports the learning of every student.

(5) Creates an environment of mutual respect, rapport, and fairness.

(6) Participates in and contributes to a school culture that focuses on improved student learning.

(7) Communicates with students, families, colleagues, and communities effectively and accurately.

b. Alternative criteria for area education agency staff who meet the definition of "teacher" are described herein. The staff member:

(1) Uses knowledge and understanding of the area education agency's mission, goals, and strategic priorities to provide services that enhance academic performance.

(2) Understands and uses knowledge of area education agency and district goals and data to provide services that enhance academic performance.

(3) Participates in and contributes to a positive learning culture.

(4) Communicates with students, families, colleagues, and communities effectively and accurately.

(5) Uses area education agency, district, and student data as a guide for decision making.

83.3(2) Demonstrates competence in content knowledge appropriate to the teaching position.

a. The teacher:

(1) Understands and uses key concepts, underlying themes, relationships, and different perspectives related to the content area.

(2) Uses knowledge of student development to make learning experiences in the content area meaningful and accessible for every student.

(3) Relates ideas and information within and across content areas.

(4) Understands and uses instructional strategies that are appropriate to the content area.

b. Alternative criteria for area education agency staff who meet the definition of "teacher" are described herein. The staff member:

(1) Understands, communicates, and uses key concepts and best practice in fulfillment of area education agency roles and responsibilities.

(2) Uses knowledge of child and adolescent development and of adult learning to make interventions and strategies meaningful, relevant, and accessible.

(3) Relates professional knowledge and services within and across multiple content and discipline areas.

(4) Understands and supports strategies and interventions that are best practice across content and discipline areas.

83.3(3) Demonstrates competence in planning and preparing for instruction.

a. The teacher:

(1) Uses student achievement data, local standards, and the district curriculum in planning for instruction.

(2) Sets and communicates high expectations for social, behavioral, and academic success of all students.

(3) Uses students' developmental needs, backgrounds, and interests in planning for instruction.

(4) Selects strategies to engage all students in learning.

(5) Uses available resources, including technology, in the development and sequencing of instruction.

b. Alternative criteria for area education agency staff who meet the definition of "teacher" are described herein. The staff member:

(1) Demonstrates the ability to organize and prioritize time, resources, and responsibilities.

(2) Demonstrates the ability to individually and collaboratively plan and prepare professional services that address the range of district, teacher, parent, and student needs.

(3) Uses district and student data to develop goals and interventions.

(4) Demonstrates the flexibility to plan for professional services based on changing conditions of the work context and environment.

(5) Uses available resources, including technology, to plan and develop professional services.

83.3(4) Uses strategies to deliver instruction that meets the multiple learning needs of students.

a. The teacher:

(1) Aligns classroom instruction with local standards and district curriculum.

(2) Uses research-based instructional strategies that address the full range of cognitive levels.

(3) Demonstrates flexibility and responsiveness in adjusting instruction to meet student needs.

(4) Engages students in varied experiences that meet diverse needs and promote social, emotional, and academic growth.

(5) Connects students' prior knowledge, life experiences, and interests in the instructional process.

(6) Uses available resources, including technology, in the delivery of instruction.

b. Alternative criteria for area education agency staff who meet the definition of "teacher" are described herein. The staff member:

(1) Aligns service delivery to district, teacher, parent, and student needs.

(2) Provides consultation, instruction, interventions, and strategies that align with learner needs.

(3) Demonstrates flexibility and responsiveness in adjusting services to meet diverse learner needs.

(4) Uses and supports research-based and evidence-based practices to meet learner needs.

(5) Uses available resources, including technology, to provide professional services that meet learner needs.

83.3(5) Uses a variety of methods to monitor student learning.

a. The teacher:

(1) Aligns classroom assessment with instruction.

(2) Communicates assessment criteria and standards to all students and parents.

(3) Understands and uses the results of multiple assessments to guide planning and instruction.

(4) Guides students in goal setting and assessing their own learning.

(5) Provides substantive, timely, and constructive feedback to students and parents.

(6) Works with other staff and building and district leadership in analysis of student progress.

b. Alternative criteria for area education agency staff who meet the definition of "teacher" are described herein. The staff member:

(1) Uses appropriate assessment, data collection, and data analysis methods that support alignment of services with learner needs.

(2) Works collaboratively within the learning community to establish measurable goals and to identify formative and summative methods to monitor progress and the quality of implementation.

(3) Communicates the rationale and criteria of assessment and monitoring methods.

(4) Elicits and provides timely and quality feedback on assessment and monitoring.

83.3(6) Demonstrates competence in classroom management.

a. The teacher:

(1) Creates a learning community that encourages positive social interaction, active engagement, and self-regulation for every student.

(2) Establishes, communicates, models, and maintains standards of responsible student behavior.

(3) Develops and implements classroom procedures and routines that support high expectations for student learning.

(4) Uses instructional time effectively to maximize student achievement.

(5) Creates a safe and purposeful learning environment.

b. Alternative criteria for area education agency staff who meet the definition of "teacher" are described herein. The staff member:

(1) Models respectful dialogue and behaviors within and across job responsibilities.

(2) Promotes and maintains a positive, safe, and productive environment.

(3) Works collaboratively and is flexible.

(4) Communicates accurately and effectively.

83.3(7) Engages in professional growth.

a. The teacher:

(1) Demonstrates habits and skills of continuous inquiry and learning.

(2) Works collaboratively to improve professional practice and student learning.

(3) Applies research, knowledge, and skills from professional development opportunities to improve practice.

(4) Establishes and implements professional development plans based upon the teacher's needs aligned to the Iowa teaching standards and district/building student achievement goals.

(5) Provides an analysis of student learning and growth based on teacher-created tests and authentic measures as well as any standardized and districtwide tests.

b. Alternative criteria for area education agency staff who meet the definition of "teacher" are described herein. The staff member:

(1) Demonstrates habits and skills of continuous inquiry and learning.

(2) Works collaboratively to improve professional practices.

(3) Applies and shares research, knowledge, and skills from professional development.

(4) Establishes and implements professional development plans aligned to area education agency, district, and student learning goals.

83.3(8) Fulfills professional responsibilities established by the school district.

a. The teacher:

(1) Adheres to board policies, district procedures, and contractual obligations.

(2) Demonstrates professional and ethical conduct as defined by state law and district policy.

(3) Contributes to efforts to achieve district and building goals.

(4) Demonstrates an understanding of and respect for all learners and staff.

(5) Collaborates with students, families, colleagues, and communities to enhance student learning.

b. Alternative criteria for area education agency staff who meet the definition of "teacher" are described herein. The staff member:

(1) Adheres to board policies, area education agency procedures, federal and state rules, and contractual obligations.

(2) Demonstrates professional and ethical conduct as defined by state law and area education agency policies.

(3) Contributes to efforts to achieve area education agency goals.

(4) Demonstrates an understanding of and respect for all learners.

(5) Collaborates with all learners.

83.3(9) The school board will provide comprehensive evaluations for beginning teachers using the Iowa teaching standards and criteria listed in this rule. The school board, for the purposes of performance reviews for teachers other than beginning teachers, will provide evaluations that contain, at a minimum, the Iowa teaching standards and criteria listed in this rule.

[**ARC 7662C**, IAB 3/6/24, effective 4/10/24]

281—83.4(284) Evaluator approval training. The department will approve eligible providers and their programs to conduct evaluator training. Only individuals certified through programs approved by the department qualify for evaluator certification by the board of educational examiners. A beginning teacher who has evaluator certification from the board of educational examiners shall not evaluate other teachers until the beginning teacher is no longer a probationary employee. Approved evaluator training programs are designed to align with the Iowa teaching standards and criteria, provide evaluators with the skills to conduct comprehensive evaluations and performance reviews pursuant to Iowa Code chapter 284, and provide for the evaluation of the progress made on individual professional development plans. This training

for evaluators is to incorporate components of theory, demonstration, practice, and application of evaluation knowledge and skills.

83.4(1) *Applications for providers of evaluator approval training.* Eligible applications for the provision of evaluator approval training include the following components:

a. A curriculum that addresses participant skill development in:

(1) The identification of quality instruction and practices based on the Iowa teaching standards and criteria;

(2) The use of multiple forms of data collection for identifying and supporting performance and development;

(3) The understanding and development of conferencing and feedback skills; and

(4) The development of skills in data-based decision making.

b. Demonstration that the evaluator approval training process design provides training as specified in this rule.

c. A description of the process used to deliver the training to participants.

d. A description of the procedures developed to certify the skill attainment of the evaluator being trained.

e. A budget.

f. Staff qualifications.

g. Evidence of the provider's expertise in evaluation design and training processes.

h. Provisions for leadership to support and implement ongoing professional development focused on student learning.

i. A process that evaluates the effectiveness of the implementation of the training process and demonstrates that the trainees have attained the knowledge and skills as described in paragraph 83.4(1)*"a."* This evaluation will be conducted on an annual basis and submitted to the department.

83.4(2) *Process used for the approval of evaluator approval training program applications.*

a. Eligible providers will apply on forms prescribed by the department. Applications for new providers will be accepted and reviewed by the department by July 1 of each year. A review panel will be convened to review applications for evaluator approval training programs based on subrule 83.4(1). The panel will recommend for approval and the department will approve the evaluator approval training programs that satisfy that subrule. Applicants will be notified of their status within 30 days of the application deadline. An approved list of private providers will be maintained on the department website with an annual notification to school districts and area education agencies of the website address that contains provider information.

b. Eligible providers may be public or private entities, including school districts, consortia, and other public or private entities, including professional organizations. Applicants are to meet all applicable federal, state, and local health, safety and civil rights laws. Higher education administrative practitioner preparation institutions are to meet the review process through the state board approval and accreditation process for these institutions.

83.4(3) *Local teacher evaluation plans.* Local districts and area education agencies will develop and implement a teacher evaluation plan that contains the following components:

a. The use of the Iowa teaching standards and criteria;

b. Provisions for the comprehensive evaluation of beginning teachers that include a review of the teacher's progress on the Iowa teaching standards as set forth in rule 281—83.3(284) and the use of the comprehensive evaluation instrument developed by the department;

c. Provisions for reviews of the performance of teachers other than beginning teachers as follows:

(1) Review once every three years by an evaluator to include, at a minimum, classroom observation of the teacher, a review of the teacher's progress on the Iowa teaching standards as set forth in rule 281—83.3(284) and additional standards and criteria if established under subrule 83.3(9), a review of the implementation of the teacher's individual professional development plan, and supporting documentation from other evaluators, teachers, parents, and students; and

(2) Review annually, other than the third-year review by an evaluator, by a peer group of teachers in accordance with Iowa Code section 284.8(1);

d. Provisions for individual professional development plans for teachers other than beginning teachers;

e. Provisions for an intensive assistance program as provided in Iowa Code section 284.8 that addresses the remediation defined under subrules 83.3(1) through 83.3(8).

(1) If a supervisor or an evaluator determines, at any time, as a result of a teacher's performance that the teacher is not meeting district expectations under subrules 83.3(1) through 83.3(8), the evaluator will, at the direction of the teacher's supervisor, recommend to the district that the teacher participate in an intensive assistance program. The intensive assistance program and its implementation are not subject to negotiation or grievance procedures established pursuant to Iowa Code chapter 20.

(2) A teacher who is not meeting the applicable standards and criteria based on a determination made pursuant to paragraph 83.4(3)*"e"* will participate in an intensive assistance program. However, a teacher who has previously participated in an intensive assistance program relating to particular Iowa teaching standards or criteria is not entitled to participate in another intensive assistance program relating to the same standards or criteria and is subject to the provisions of paragraph 83.4(3)*"f."*

f. Following a teacher's participation in an intensive assistance program, the teacher will be reevaluated to determine whether the teacher successfully completed the intensive assistance program and is meeting district expectations under the applicable Iowa teaching standards or criteria. If the teacher did not successfully complete the intensive assistance program or continues not to meet the applicable Iowa teaching standards or criteria, the school board may do any of the following:

(1) Terminate the teacher's contract immediately pursuant to Iowa Code section 279.27.

(2) Terminate the teacher's contract at the end of the school year pursuant to Iowa Code section 279.15.

(3) Continue the teacher's contract for a period not to exceed one year. However, the contract will not be renewed and is not subject to Iowa Code section 279.15.

[**ARC 7662C**, IAB 3/6/24, effective 4/10/24]

281—83.5(284) Professional development for teachers.

83.5(1) *Professional development for school districts, area education agencies, and attendance centers.* The following provisions apply to professional development for school districts, area education agencies, and attendance centers:

a. Professional learning standards. Professional learning within an area education agency or local district is aligned with the state standards for teaching and learning and aligned to the following standards for professional development. Professional learning increases educator effectiveness and results for all students when it:

(1) Occurs within learning communities committed to continuous improvement, collective responsibility, and goal alignment.

(2) Requires skillful leaders to develop capacity, advocate, and create support systems for professional learning.

(3) Prioritizes, monitors, and coordinates resources for educator learning.

(4) Uses a variety of sources and types of student, educator, and system data to plan, assess, and evaluate effectiveness of instruction.

(5) Integrates theories, research, and models of human learning to achieve intended outcomes.

(6) Applies research on change and sustains support for implementation of professional learning for long-term change.

(7) Aligns its outcomes with educator performance and student curriculum standards.

b. District or area education agency professional development plan. The district or area education agency professional development plan is to be a long-term plan designed and implemented to increase student achievement and includes all on-site and district or area education agency personnel responsible for instruction. The district or area education agency professional development plan is to contain, but not be limited to, the following:

(1) Implementation of a school district's or area education agency's plan for professional learning.

(2) Documentation that the professional development is based on student data; aligned with district or attendance center student achievement goals; and focused on instruction, curriculum, and assessment.

(3) The study and implementation of research-based instructional strategies that improve teaching and learning.

(4) Collaborative inquiry into the area of greatest student learning need.

(5) Research-based training strategies (e.g., theory, demonstration, observation, practice, coaching, reflection, evaluation) that promote transfer and positive outcomes as needed for learning new practices.

(6) Allocation of time to collectively study content, instruction, and impact so necessary adjustments can be made to ensure student success.

(7) Accountability and an evaluation that documents improvement of practice and the impact on student learning.

c. Attendance center professional development plans. Each attendance center within a school district will develop an attendance center professional development plan as a means of promoting group professional development. An attendance center professional development plan will further the needs of personnel responsible for instruction in the attendance center and enhance the student achievement goals of the attendance center and the goals of the district.

d. Individual professional development plans. The school district and area education agency shall support the development and implementation of the individual teacher professional development plan for each teacher as outlined in subrule 83.5(2). Each individual teacher professional development plan will align to the fullest extent possible with the district professional development plan.

e. Beginning teacher mentoring and induction. A school district will develop and implement a beginning teacher mentoring and induction plan as outlined in subrule 83.2(1) or a framework for beginning teachers as outlined in subrule 83.2(2). The district's beginning teacher mentoring and induction plan or framework for beginning teachers will align with the district professional development plan described in paragraph 83.5(1)*"b."* An area education agency will develop and implement a beginning teacher mentoring and induction plan as outlined in subrule 83.2(1), which will align with the area education agency's professional development plan described in paragraph 83.5(1)*"b."*

f. Organizational support for professional development. The school district will provide resources and support for the district professional development plan, including opportunities for professional development, time for collaborative work of staff, budgetary support, and policies and procedures that reflect the district's commitment to professional development.

83.5(2) *Individual teacher professional development plan.* Each school district and area education agency shall support the development and implementation of individual teachers' professional development plans for teachers other than beginning teachers. The purpose of the individual plan is to promote individual and collective professional development. At a minimum, the goals for an individual teacher professional development plan are based on the needs of the teacher and on the relevant Iowa teaching standards that support the student achievement goals of the teacher's classroom or classrooms, attendance center and school district or area education agency, as appropriate, as outlined in the comprehensive school improvement plan. The goals will go beyond those under the attendance center professional development plan described in paragraph 83.5(1)*"c."* The learning opportunities provided to meet the goals of the individual teacher plan include individual study and collaborative study of district-determined or area education agency-determined content to the extent possible. The individual plan will be developed by the teacher in collaboration with the teacher's evaluator. An annual meeting will be held between the teacher's evaluator and the teacher to review the goals and refine the plan.

83.5(3) *Professional development provider standards.*

a. A provider may be a school district; an area education agency; a higher education institution; a public or private entity, including a professional organization that provides long-term, ongoing support for the district's or area education agency's professional development plan; or a consortium of any of the foregoing. An educational organization or program with specific professional development accreditation or approval from the department is an approved provider.

b. Providers that are not currently accredited or approved through state accreditation procedures will follow approval procedures identified in the district's or area education agency's professional development plan. The potential provider will submit to the school district or area education agency a written application that provides the following documentation:

(1) How the provider will deliver technical assistance that meets the Iowa professional development standards provided in paragraph 83.5(1)*"a."*

(2) How the provider intends to assist the local district or area education agency in designing, implementing, and evaluating professional development that satisfies paragraph 83.5(1)*"b."*

(3) A description of the qualifications of the provider.

(4) Evidence of the provider's expertise in professional development.

(5) A budget.

(6) Procedures for evaluating the effectiveness of the technical assistance delivered by the provider.

[**ARC 7662C**, IAB 3/6/24, effective 4/10/24]

281—83.6(284) Teacher quality committees. Each school district and area education agency will create a teacher quality committee pursuant to Iowa Code section 284.4. The committee is subject to Iowa Code chapter 21. To the extent possible, committee membership will have balanced representation with regard to gender. The committee will do all of the following:

1. Monitor the implementation of statutes and administrative code provisions relating to this chapter, including those that affect any agreement negotiated pursuant to Iowa Code chapter 20.

2. Monitor the evaluation provisions of this chapter to ensure evaluations are conducted in a fair and consistent manner throughout the school district or agency. The committee will develop model evidence for the Iowa teaching standards and criteria. The model evidence will minimize paperwork and focus on teacher improvement. The model evidence will determine which standards and criteria can be met through observation and which evidence meets multiple standards and criteria.

3. Determine, following the adoption of the Iowa professional development model by the state board of education, the use and distribution of the professional development funds distributed to the school district or agency as provided in Iowa Code section 284.13(1)*"d"* based upon school district or agency, attendance center, and individual teacher professional development plans.

4. Monitor the professional development in each attendance center to ensure that the professional development meets school district or agency, attendance center, and individual teacher professional development plans.

5. Determine the compensation for teachers on the committee for work responsibilities beyond the normal workday.

6. Make recommendations to the school board and the certified bargaining representative regarding the expenditures of market factor incentives.

[**ARC 7662C**, IAB 3/6/24, effective 4/10/24]

DIVISION III
SPECIFIC STANDARDS APPLICABLE TO ADMINISTRATOR QUALITY PROGRAMS

281—83.7(284A) Administrator quality program. An administrator quality program is established to promote high student achievement and enhanced educator quality and consists of the following four major components:

1. Adherence to the Iowa school leadership standards and criteria as the minimum basis for evaluations of administrators and as the basis for professional development plans for administrators.

2. Mentoring and induction programs that provide support for administrators in accordance with Iowa Code section 284A.5.

3. Professional development designed to directly support best practice for leadership.

4. Evaluation of administrators against the Iowa standards for school administrators.

[**ARC 7662C**, IAB 3/6/24, effective 4/10/24]

281—83.8(284A) Mentoring and induction program for administrators. Each school board will establish a beginning administrator mentoring and induction program as specified in Iowa Code section 284A.5.

[**ARC 7662C**, IAB 3/6/24, effective 4/10/24]

281—83.9(284A) Iowa school leadership standards for administrators. Rule 281—83.10(284), as in effect on April 9, 2024, remains applicable until July 1, 2024. The Iowa school leadership standards for administrators provide a framework to guide leadership practice and how leaders are prepared, hired, developed, supervised and evaluated. A local school board may establish additional administrator standards and related criteria but will, at a minimum, utilize the following standards:

83.9(1) *Mission, vision, and core values.* Educational leaders develop, advocate, and enact a shared mission, vision, and core values of high-quality education and academic success and well-being of each student.

83.9(2) *Ethics and professional norms.* Educational leaders act ethically and according to professional norms to promote each student's academic success and well-being.

83.9(3) *Equity and cultural responsiveness.* Educational leaders strive for equity of educational opportunity and culturally responsive practices to promote each student's academic success and well-being.

83.9(4) *Curriculum, instruction, and assessment.* Educational leaders develop and support intellectually rigorous and coherent systems of curriculum, instruction, and assessment to promote each student's academic success and well-being.

83.9(5) *Community of care and support for students.* Educational leaders cultivate an inclusive, caring, and supportive school community that promotes the academic success and well-being of each student.

83.9(6) *Professional capacity of school personnel.* Educational leaders develop the professional capacity and practice of school personnel to promote each student's academic success and well-being.

83.9(7) *Professional community for teachers and staff.* Educational leaders foster a professional community of teachers and other professional staff to promote each student's academic success and well-being.

83.9(8) *Meaningful engagement of families and communities.* Educational leaders engage families and the community in meaningful, reciprocal, and mutually beneficial ways to promote each student's academic success and well-being.

83.9(9) *Operations and management.* Educational leaders manage school operations and resources to promote each student's academic success and well-being.

83.9(10) *School improvement.* Educational leaders act as agents of continuous improvement to promote each student's academic success and well-being.

[**ARC 7662C**, IAB 3/6/24, effective 4/10/24]

281—83.10(284A) Evaluation. The board of directors of a school district will conduct an annual evaluation of an administrator who holds a professional administrator license issued under Iowa Code chapter 272, as specified in Iowa Code section 284A.7.

[**ARC 7662C**, IAB 3/6/24, effective 4/10/24]

281—83.11(284A) Professional development of administrators. Each school district is responsible for the provision of professional growth programming for individuals employed in a school district administrative position by the school district or area education agency as deemed appropriate by the board of directors of the school district or area education agency as specified in Iowa Code section 284A.6.

[**ARC 7662C**, IAB 3/6/24, effective 4/10/24]

These rules are intended to implement Iowa Code chapters 284 and 284A.

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CHAPTER 84
FINANCIAL INCENTIVES FOR NATIONAL BOARD CERTIFICATION

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/31/29

281—84.1(256) Definitions. For the purpose of these rules, the following definitions apply:

"A person who receives a salary as a classroom teacher" means a teacher employed by a school district in Iowa who receives any salary compensation from the school district for providing classroom instruction to students in the district.

"Department" means the Iowa department of education.

"Director" means the director of the Iowa department of education.

"Employed by a school district in Iowa" means a teacher employed in a nonadministrative position in an Iowa school district pursuant to a contract issued by a board of directors of a school district under Iowa Code section 279.13 and any full-time permanent substitute teacher who is employed under individual contracts not included under Iowa Code section 279.13 but who is receiving retirement and health benefits as part of the substitute teacher's contract.

"National Board Certification" or *"NBC"* is a nationwide certification program administered by the National Board for Professional Teaching Standards.

"National Board for Professional Teaching Standards" or *"NBPTS"* is a private nonprofit organization whose goal is to develop professional standards for early childhood, elementary and secondary school teaching. NBPTS administers the NBC program.

"School district" means a public school district under Iowa Code chapter 274.

"Teacher" means an Iowa-licensed teacher as defined in Iowa Code section 272.1.

[**ARC 7423C**, IAB 12/27/23, effective 1/31/24]

281—84.2(256) Registration fee reimbursement program. The department will administer a registration fee reimbursement program in each year for which the legislature appropriates funds.

84.2(1) *Eligibility.* Teachers seeking reimbursement under this rule will apply to the department within one year of registration with NBPTS and meet all of the following qualifications:

a. The individual has all qualifications required by NBPTS for application for certification.

b. The individual is a teacher employed by a school district in Iowa and receives a salary as a classroom teacher.

c. The individual completes the department's application process, which includes verifying NBC registration.

d. The individual has not received reimbursement from this program at any previous time.

84.2(2) *Reimbursement.* Teachers determined eligible will receive reimbursement in the following manner:

a. Initial registration fee reimbursement. Each eligible teacher will receive an initial reimbursement of one-half of the reimbursement fee charged by NBPTS or, if necessary, a prorated amount upon submission to the department of the NBC registration confirmation form provided to each teacher by NBPTS.

b. Final registration fee reimbursement. The final registration fee reimbursement of one-half of the reimbursement fee charged by NBPTS will be awarded when the eligible teacher notifies the department of the teacher's certification achievement and submits verification of certification. If an eligible teacher fails to receive certification, the teacher can receive the remaining reimbursement if the teacher achieves certification within three years of the initial NBC score notification.

c. Amount of reimbursement. If funds are appropriated by the legislature, each eligible teacher who applies under this rule will receive the registration fee reimbursement. If in any fiscal year the number of eligible teachers who apply for the reimbursement exceeds the funds available, the department will prorate the amount of the registration fee reimbursement among all eligible teachers.

[**ARC 7423C**, IAB 12/27/23, effective 1/31/24]

281—84.3(256) NBC annual award. If funds are appropriated by the legislature, each eligible NBC teacher will qualify for an NBC annual award. If in any fiscal year the funds appropriated are insufficient to pay the maximum amount of the annual awards to each eligible teacher or the number of teachers eligible to receive annual awards exceeds 1,100 individuals, the department will prorate funds among all eligible teachers. An eligible teacher who receives NBC certification after May 1, 2000, will receive an annual award of up to $2,500 per year or a prorated amount for a maximum period of ten years. An otherwise-eligible teacher who possesses a teaching contract that is less than full-time will receive an award prorated to reflect the type of contract (half-time, quarter-time, etc.).

84.3(1) *Eligibility.* In addition to having registered with NBPTS and achieving certification within NBPTS-established timelines and policies, individuals eligible for the NBC annual award will meet all of the following qualifications:

a. The individual is a teacher who has attained NBC certification.

b. The individual is employed by a school district in Iowa and receives a salary as a classroom teacher.

c. The individual completes the department's annual application process, in a manner prescribed by the department.

d. The individual has received no more than ten annual awards, including the annual award currently sought.

e. The individual is applying for the award within one year of being eligible for the award.

84.3(2) *Application.* To receive an award under this rule, an NBC teacher will submit an application verifying eligibility for an NBC award to the department by May 1. The department will issue NBC awards to eligible NBC teachers no later than June 1.

[**ARC 7423C**, IAB 12/27/23, effective 1/31/24]

281—84.4(256) Appeal of denial of a registration fee reimbursement award or an NBC annual award. Any applicant may appeal the denial of a registration fee reimbursement award or an NBC annual award to the director of the department. Appeals will be in writing, signed, and notarized; will contain a short and plain statement of the reasons for appeal; will be based on a contention that the process was conducted outside statutory authority or violated state or federal law, regulation or rule; and will be received within ten working days of the date of the notice of denial. The hearing and appeal procedures found in 281—Chapter 6 that govern the director's decisions will apply to proceedings under this rule. The director's decision is due within a reasonable time, not to exceed 30 days from the date of the hearing.

[**ARC 7423C**, IAB 12/27/23, effective 1/31/24]

These rules are intended to implement Iowa Code section 256.44.

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CHAPTER 85
CLASSIFICATION OF CERTIFICATES (Through 9/30/88)
[Prior to 9/7/88, see Public Instruction Department[670] Ch 14]
Rescinded 11/14/90, see IAB 12/12/90

CHAPTER 86
ENDORSEMENTS (Through 9/30/88)
[Prior to 9/7/88, see Public Instruction Department[670] Ch 15]
Rescinded 11/14/90, see IAB 12/12/90

CHAPTER 87
APPROVALS (Through 9/30/88)
[Prior to 9/7/88, see Public Instruction Department[670] Ch 16]
Rescinded 11/14/90, see IAB 12/12/90

CHAPTER 88
CONVERSION AND RENEWAL OF CERTIFICATES (Through 9/30/88)
[Prior to 9/7/88, see Public Instruction Department[670] Ch 17]
Rescinded 11/14/90, see IAB 12/12/90

CHAPTER 89
STANDARDS FOR TEACHER EDUCATION PROGRAMS (Through 9/30/88)
[Prior to 9/7/88, see Public Instruction Department[670] Ch 19]
Rescinded 11/14/90, see IAB 12/12/90

CHAPTER 90
STANDARDS FOR GRADUATE TEACHER EDUCATION PROGRAMS
[Prior to 9/7/88, see Public Instruction Department[670] Ch 20]
Rescinded IAB 12/16/98, effective 1/20/99

CHAPTER 91
PHASE III, EDUCATIONAL EXCELLENCE PROGRAM
[Prior to 9/7/88, see Public Instruction Department[670] Ch 80]
Rescinded IAB 5/20/09, effective 6/24/09

CHAPTERS 92 and 93
Reserved

TITLE XV
EDUCATIONAL EXCELLENCE

CHAPTER 94
ADMINISTRATIVE ADVANCEMENT AND RECRUITMENT PROGRAM
Rescinded **ARC 3180C**, IAB 7/5/17, effective 8/9/17

CHAPTER 95
EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION IN EDUCATIONAL AGENCIES

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/31/29

281—95.1(19B) Definitions. The following definitions will be applied to the rules in this chapter:

"Affirmative action" means action appropriate to overcome the effects of past or present practices, policies, or other barriers to equal employment opportunity.

"Agency" means a local school district, an area education agency or a community college.

"Availability" means the extent to which members of a racial/ethnic group, women, men or persons with disabilities are present within the relevant labor market.

"Department" means the Iowa department of education.

"Director of education" means the director of the Iowa department of education.

"Equal employment opportunity" means equal access to employment, training and advancement, or employment benefits regardless of race, creed, color, religion, sex, age, national origin and disability.

"Metropolitan statistical area" means a large population nucleus (over 50,000 persons) and nearby communities which have a high degree of economic and social integration with that nucleus. Each area consists of one or more entire counties.

"Person with a disability" means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment or is regarded as having such an impairment, as defined in Iowa Code section 216.2.

"Racial/ethnic minority person" means any person who is African American, Hispanic, Asian or Pacific Islander, American Indian or Alaskan Native.

"Relevant labor market" means the geographic area in which an agency can reasonably be expected to recruit for a particular job category.

"Underrepresentation" means having fewer members of a racial/ethnic group, women, men or persons with disabilities in a particular job category than would be reasonably expected based on their availability in the relevant labor market.

"Work force" means an agency's full-time and part-time employees.

[**ARC 7430C**, IAB 12/27/23, effective 1/31/24]

281—95.2(19B) Equal employment opportunity standards. An agency's employment policies and practices shall provide equal employment opportunity to all persons. No person may be denied equal access to agency employment opportunities because of race, creed, color, religion, national origin, gender, age or disability.

[**ARC 7430C**, IAB 12/27/23, effective 1/31/24]

281—95.3(19B) Duties of boards of directors. Each agency's board of directors will adopt policy statements and develop plans for implementation of equal employment opportunity standards and affirmative action programs, which contain the following elements:

1. A policy statement outlining the board of directors' commitment to the principles of equal employment opportunity and affirmative action, which contain procedures for employees and applicants for employment to redress complaints of discrimination.
2. A written equal employment opportunity and affirmative action plan, to be evaluated and updated on a biennial basis.
3. Assignment of responsibility to an employee for coordinating the development and ongoing implementation of the plans. This employee may be the same employee who has been assigned to coordinate the agency's efforts to comply with federal laws requiring nondiscrimination in educational programs and employment.
4. Systematic input from diverse racial/ethnic groups, women, men and persons with disabilities into the development and implementation of the plans, which may include using existing advisory committees or public hearing procedures.

5. Periodic training for all staff who hire or supervise personnel on the principles of equal employment opportunity and the implementation of its affirmative action plan.

6. Maintenance of necessary records to document its affirmative action progress. An agency will report employment data to the department by racial/ethnic category, gender and disability.

[**ARC 7430C**, IAB 12/27/23, effective 1/31/24]

281—95.4(19B) Plan components. In addition to the board policy statement, each agency's equal employment opportunity and affirmative action plan will include, at a minimum, the following components:

95.4(1) *General.*

a. The name, job title, address and phone number of the employee responsible for coordinating the development and implementation of the equal employment opportunity and affirmative action plans.

b. An administrative statement on how the agency's equal employment opportunity and affirmative action policies and plans are to be implemented, including the internal system for auditing and reporting progress, to be signed and dated by the chief executive officer of the agency.

c. A work force analysis showing the numerical and percentage breakdown of the agency's full-time and part-time employees within each major job category (consistent with the E.E.O. 5 and E.E.O. 6 occupational categories reported to the United States Equal Employment Opportunity Commission) by racial/ethnic group, gender, and disability. For the purpose of confidentiality, disability data may be based on total agency figures, rather than those of major job categories.

d. A quantitative analysis comparing work force analysis figures with the availability of qualified or qualifiable members of racial/ethnic groups, women, men and persons with disabilities within the relevant labor market.

e. When underrepresentation is identified in one or more major job category, the agency will conduct a qualitative analysis to be included in the agency's affirmative action plan. The qualitative analysis is a review of employment policies and practices to determine if and where those policies and practices tend to exclude, disadvantage, restrict or result in adverse impact on the basis of racial/ethnic origin, gender, or disability. The analysis may include, but is not limited to the review of:

(1) Recruitment practices and policies;
(2) A demographic study of the applicant pool and flow;
(3) The rate and composition of turnover in major job categories;
(4) Trends in enrollment that will affect the size of the work force;
(5) Application and application screening policies and practices;
(6) Interview, selection, and placement policies and practices;
(7) Transfer and promotion policies and practices;
(8) Discipline, demotion, termination, and reduction in force policies and practices;
(9) Employee assistance, training selection, and mentoring policies and practices;
(10) The impact of any collective bargaining agreement on equal employment opportunity and the affirmative action process;
(11) Law, policies or practices external to the agency that may hinder success in equal employment opportunity and affirmative action.

95.4(2) *Quantitative goals.* The agency will develop numerical goals and timetables for reduction of underrepresentation in each major job category where it has been identified. These goals are not rigid and inflexible quotas, but reasonable aspirations toward correcting imbalance in the agency's work force. A goal shall not cause any group of applicants to be excluded from the hiring process. When setting numerical goals, agencies will take into consideration the following:

a. The numbers and percentages from the work force analysis conducted pursuant to subrule 95.4(1);

b. The number of short- and long-term projected vacancies in the job category, considering turnover, layoffs, lateral transfers, new job openings, and retirements;

c. The availability of qualified or qualifiable persons from underrepresented racial/ethnic, gender and disability categories within the relevant labor market;

d. The makeup of the student population served by racial/ethnic origin, gender and disability;

e. The makeup of the population served by racial/ethnic origin, gender and disability;

f. The makeup of the population of the metropolitan statistical area, when applicable, by racial/ethnic origin, gender, and disability.

95.4(3) *Qualitative goals.* The agency will develop qualitative goals, activities and timetables which specify the appropriate actions and time frames in which problem areas identified during the qualitative analysis are targeted and remedied. In setting qualitative goals and planning actions, the agency may consider, but need not be limited to, the following:

a. Broadening or targeting recruitment efforts;

b. Evaluating and validating criteria and instruments used in selecting applicants for interviews, employment, and promotion;

c. Providing equal employment opportunity, affirmative action, and intergroup relations training for employees of the agency;

d. Developing a system of accountability for implementing the agency's plan;

e. Developing and implementing an employee assistance and mentoring program;

f. Establishing a work climate that is sensitive to diverse racial/ethnic groups, both women and men and persons with disabilities;

g. Negotiating the revision of collective bargaining agreements to facilitate equal employment opportunity and affirmative action.

95.4(4) *Absence of minority base.* Agencies with no minority students enrolled or no minority employees shall develop goals and timetables for recruiting and hiring persons of minority racial/ethnic origin when those persons are available within the relevant labor market.

95.4(5) *Consolidation.* An agency may consolidate racial/ethnic minorities and job categories into broader groupings in conducting analyses under this chapter when its size or number of employees makes more specific categories impractical.

[**ARC 7430C**, IAB 12/27/23, effective 1/31/24]

281—95.5(19B) Dissemination. Each agency will adopt an internal and external system for disseminating its equal employment opportunity and affirmative action policies and plans.

95.5(1) *Plan distribution.* An agency will annually distribute its policies and plans to agency employees involved in the hiring or management of personnel, and the agency will make the policies and plans available to other agency employees, the public and the director of education upon request.

95.5(2) *Policy statement distribution.* An agency will distribute its policy statement to all applicants for employment, and the agency will distribute the policy statement annually to employees, students, parents, and recruitment sources.

[**ARC 7430C**, IAB 12/27/23, effective 1/31/24]

281—95.6(19B) Reports. Each agency will submit an annual progress report on equal employment opportunity and affirmative action to its local board of directors. Each agency will submit its annual progress report under this chapter to the department by December 31 of each year. The report is a part of the basic educational data collection system administered by the department.

[**ARC 7430C**, IAB 12/27/23, effective 1/31/24]

These rules are intended to implement Iowa Code section 19B.11.

[Filed 10/26/89, Notice 5/17/89—published 11/15/89, effective 12/20/89]

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TITLE XVI
SCHOOL FACILITIES

CHAPTER 96
STATEWIDE SALES AND SERVICES TAX FOR SCHOOL INFRASTRUCTURE

Chapter rescission date pursuant to Iowa Code section 17A.7: 5/22/29

281—96.1(423E,423F) Definitions.

"Actual enrollment" means the number of students each school district certifies to the department by October 15 of each year in accordance with Iowa Code section 257.6(1).

"Base year" means the school year ending during the calendar year in which the budget is certified.

"Certificate of need" means the written department of education approval a school district must obtain if the district has a certified enrollment of fewer than 250 students or a certified enrollment of fewer than 100 students in grades 9 through 12.

"Combined actual enrollment" means the sum of the students in each school district located in whole or in part in a county who are residents of that county as determined by rule 281—96.2(423E,423F).

"Department" means the state department of education.

"Guaranteed school infrastructure amount" means for a school district the statewide tax revenues per student, multiplied by the quotient of the tax rate percent imposed in the county, divided by 1 percent and multiplied by the quotient of the number of quarters the tax is imposed during the fiscal year divided by four quarters.

"New construction" means any erection of a facility or any modification or addition to a facility except for repairing existing schoolhouses or school buildings or for construction necessary for compliance with the federal Americans with Disabilities Act, 42 U.S.C. Sections 12101 to 12117, effective February 7, 2024.

"Nonresident student" means a student enrolled in a school district who does not meet the definition of a resident in Iowa Code section 282.1.

"Reconstruction" means rebuilding or restoring as an entity a thing that was lost or destroyed.

"Repair" means restoring an existing structure or thing to its original condition, as near as may be, after decay, waste, injury, or partial destruction, but does not include maintenance.

"Resident student" means a student enrolled in a school district who meets the definition of a resident in Iowa Code section 282.1.

"Revenue purpose statement" means a document prepared by the school district indicating the specific purpose or purposes for which the funding, pursuant to Iowa Code chapters 423E and 423F, will be expended.

"Sales tax" means the statewide sales and services tax for school infrastructure imposed in accordance with Iowa Code chapter 423F.

"School budget review committee" or *"SBRC"* means a committee that is established under Iowa Code section 257.30.

"School district" means a public school district in Iowa accredited by the state department of education.

"School infrastructure" means the same as defined in Iowa Code section 423F.3(6).

"Site improvement" means grading, landscaping, paving, seeding, and planting of shrubs and trees; constructing sidewalks, roadways, retaining walls, sewers and storm drains, and installing hydrants; surfacing and soil treatment of athletic fields and tennis courts; exterior lighting, including athletic fields and tennis courts; furnishing and installing flagpoles, gateways, fences, and underground storage tanks that are not parts of building service systems; demolition work; and special assessments against the school district for public improvements defined in Iowa Code section 384.37.

"Statewide tax revenues per student" means the amount per student established by Iowa Code section 423E.4(2)*"b"*(3).

[**ARC 7800C**, IAB 4/17/24, effective 5/22/24]

281—96.2(423E,423F) Reports to the department. Each school district shall, by October 15, annually report the school district's actual enrollment on October 1 by the student's county of residency according to the following:

96.2(1) *County of residency.* The county of residency for each of the students is the county in which the student lives in accordance with Iowa Code section 282.1.

96.2(2) *Emancipated minor.* The county of residency for an emancipated minor attending the school district is the county in which the emancipated minor is living.

96.2(3) *County of residency unknown.* If a school district cannot determine an enrolled student's county of residency or if the county of residency is not a county in which the school district is located, the county of residency is the county in which the school district certifies its budget.

[**ARC 7800C**, IAB 4/17/24, effective 5/22/24]

281—96.3(423E,423F) Combined actual enrollment. By March 1, annually, the department will forward to the department of management the actual enrollment and the actual enrollment by the student's county of residency for each school district located in whole or in part in a county where a sales tax has been imposed and the combined actual enrollment for that county.

[**ARC 7800C**, IAB 4/17/24, effective 5/22/24]

281—96.4(423E,423F) Application and certificate of need process.

96.4(1) *When application is needed; application period.* A school district that does not exceed enrollment thresholds defined in Iowa Code section 423F.3(5) shall not expend the amount of statewide sales and services tax received for new construction without prior application to the department and receipt of a certificate of need. A certificate of need is not necessary for repair of school facilities; for purchase of equipment, technology, or transportation equipment for transporting students as provided in Iowa Code section 298.3; school safety and security infrastructure as provided in Iowa Code section 423F.3(6) other than new construction; or for construction necessary to comply with the federal Americans With Disabilities Act, 42 U.S.C. Sections 12101 to 12117, effective February 7, 2024. Applications are due no later than eight weeks prior to a regularly scheduled meeting of the SBRC. The SBRC holds regularly scheduled meetings as stipulated in rule 289—1.4(257).

96.4(2) *Application form.* Each applicant school district is to use the form prepared by the department for this purpose and in the manner prescribed by the department. The application form includes at least the following information:

a. The total capital investment of the project. If the project is in collaboration with other public or private entities, a school district is to include the following information:

(1) Identification of the collaborating public or private entities;

(2) Total cost of the collaborative project; and

(3) Total cost of the school district's portion of the project.

b. The infrastructure needs of a school district specific to the application, especially the fire and health safety needs, including the extent to which the project would allow the school district to meet its infrastructure needs on a long-term basis. If a school district's needs include fire and health safety needs, the school district is to attach to its application form a copy of the citation from the fire marshal for the safety deficiency or evidence of consultation with the fire marshal or other qualified inspector related to the health safety deficiency. A school district is to include evidence of public involvement in assessing the need for this project.

c. The description of need including a cost-benefit analysis of remodeling, reconstructing, or repairing the existing structure rather than implementing this project and a description of any alternatives considered and the reasons for rejection.

d. Enrollment trends by grade in a school district showing a five-year history and five years of projected enrollment by grade. The school district is to identify the grades that will be served at the new construction site. If a school district uses enrollment projections other than those prepared by the department, the school district is to submit a description of the basis for those projections. The school district is to demonstrate that there is sufficient economic activity and stability to support and sustain enrollment projections of the affected attendance center.

e. If a school district's enrollment in the current year or any of the five years of projected enrollments is fewer than 250 students, the school district is to attach a copy of a feasibility study pursuant to Iowa Code section 256.9(30) or similar study conducted within the past three years with an explanation of how the study supports the project that is the subject of the application.

f. A description of the benefits and effects of the project and its relationship to improving student learning including alignment with school district student achievement goals and including the school district's ability to meet or exceed the educational standards. A school district is to provide:

(1) A list of waivers applied for and granted to the school district or any deficiencies from educational standards if no waiver was granted.

(2) A list of courses offered by major curricular area in grades 9 through 12, including five years of history and three years of projected curricula if the proposed new construction will house any of the grades 9 through 12.

(3) A list of current and projected staffing patterns including assignments and licensure.

g. Description of transportation barriers, if any, to the current site and to the proposed site and the distance in miles and in travel time from the nearest and furthest boundaries of the school district to the current site and the proposed site.

h. Evidence of a healthy financial condition and long-term financial stability. The school district is to provide:

(1) Calculation of unspent balance on the generally accepted accounting principles (GAAP) basis, including five years of history and three years of projected balances. The calculation of budget authority is to show and project the effect of the budget adjustment under Iowa Code section 257.14. Projected allowable growth is that which is known or generally anticipated at the time of the application. If the percent of allowable growth is not known or anticipated, a district may use an annual projected allowable growth of up to 2 percent.

(2) If the unspent balance is negative in any current or projected year on the GAAP basis, the school district shall include a copy of the corrective action plan, if any, submitted to the SBRC.

(3) Calculation of fund balance on the GAAP basis by fund. The calculation shall include five years of history and three years of projected balances.

i. If a school district currently has bonded indebtedness, the voter-approved physical plant and equipment levy, or categorical funding for school infrastructure, the school district is to include a statement identifying the implementation date, final year of the bonded indebtedness or the final year of the levy or categorical funding, and the levy rate. The school district is to list any obligations against those current balances and future revenues or against the statewide sales and services tax for school infrastructure amounts. The school district is to attach a copy of the school district's revenue purpose statement, if any.

j. A comprehensive, districtwide infrastructure plan. The school district is to include the date that the plan was adopted by the board, an executive summary of the plan, and a description of how the project fits within the infrastructure plan.

k. A five-year history of significant infrastructure maintenance and repair.

l. A statement certifying the accuracy of the information contained in the application.

96.4(3) *Board minutes.* A school district that is applying for a certificate of need is to submit with its application a copy of the published minutes of the board of director's meeting showing that the board has authorized the application and the project and that the public has been informed, with the section of the board minutes containing this information marked in such a way as to make it easily identifiable.

96.4(4) *Reapplication.* A school district that is not successful in obtaining a certificate of need for the project that is the subject of the application may apply for a certificate of need in succeeding application periods if its circumstances change substantially.

96.4(5) *Application timeline.* A school district is to apply for a certificate of need either:

a. When the school district has received amounts that it intends to accumulate for new construction or for payment of debt related to new construction; or

b. When the school district board has accumulated amounts and wants to proceed with the new construction project or debt issuance related to new construction, whichever occurs first.

96.4(6) *Compliance requirement on uses.* All projects included in the application must be consistent with the provisions of the Americans With Disabilities Act and the Rehabilitation Act of 1973, Section 504, as both are codified on February 7, 2024, and Iowa Code chapter 104A.
[**ARC 7800C**, IAB 4/17/24, effective 5/22/24]

281—96.5(423E,423F) Review process.

96.5(1) *Task force.* The department will form a task force to review applications for certificate of need and to provide recommendations to the SBRC. The department will invite participants from large, medium, and small school districts, the state fire marshal's office, education and professional organizations, or other individuals knowledgeable in school infrastructure and construction issues. The department, in consultation with the task force, will establish the parameters and criteria for awarding certificates of need based on information listed in Iowa Code section 423E.4(5), which includes consideration of the following:

a. Enrollment trends in the grades that will be served at the new construction site.

b. The cost-benefit analysis of remodeling, reconstructing, or repairing existing buildings.

c. The fire and health safety needs of the school district.

d. The distance, convenience, cost of transportation, and accessibility of the new construction site to the students to be served at the new construction site.

e. Unavailability of alternative, less costly, or more effective means of serving the needs of the students.

f. The financial condition of the school district, including the effect of the budget adjustment and unspent balance.

g. Broad and long-term ability of the school district to support the facility and the quality of the academic program.

h. Cooperation with other educational entities including other school districts, area education agencies, postsecondary institutions, and local communities.

96.5(2) *Task force review.* The task force, or a subcommittee of the task force, and its designees, will review each application and make recommendations to the school budget review committee regarding approval of certificates of need based on the evidence provided by the applicant pursuant to subrule 96.4(2) and the criteria listed in subrule 96.5(1). More than one member of the task force or subcommittee of the task force and its designees shall review each application. A reviewer will not review any application in which the reviewer has a conflict of interest.

96.5(3) *Approval process.* Applications will be reviewed and recommended for approval or denial based on any or all of the following individual or collective criteria, with each applicable criterion scored on a scale of zero to ten. Applicable scores will be averaged. Nonapplicable criteria will not be used in determining the average score. An application shall have a minimum average score of five to be eligible to be recommended for approval. If an application receives a score of zero on one or more applicable criteria, the application will not be recommended for approval. A recommendation for approval by the task force does not constitute final approval of the application. The following categories on the application will be evaluated and scored:

a. Infrastructure needs the project proposes to alleviate. Special consideration shall be given to infrastructure needs that relate to fire or health safety issues.

b. Evidence that remodeling, reconstructing, or repairing the existing buildings is not feasible.

c. Unavailability of alternative, less costly, or more effective means of serving student needs.

d. Improvement of transportation distance, convenience, cost and accessibility with the new construction.

e. Sustainable financial condition and long-term financial stability of the school district.

f. Evidence that the proposed project will improve educational opportunities for students and enable the school district to meet or exceed educational standards.

g. Current comprehensive, districtwide infrastructure plan and the description of how this project fits within that plan.

h. Description of collaboration with one or more other public or private entities.

96.5(4) *Ineligibility for approval.* If either of the following two descriptions applies to the school district, the school district is not eligible for a certificate of need unless a feasibility study conducted within

the past three years pursuant to Iowa Code section 256.9(30) and the AEA plan pursuant to Iowa Code sections 275.1 through 275.4 determine that sharing, reorganization, or dissolution is not feasible for the school district.

a. The current enrollment or any of the five years of projected enrollments for the school district is fewer than 250 students.

b. The current enrollment or any of the five years of projected enrollments for the school district for grades 9 through 12 is fewer than a total of 100 students, if a high school building is the subject of the application.

96.5(5) *School budget review committee.* The SBRC will review the recommendations from the task force for approval of certificates of need and make recommendations on approval to the department for final consideration.

[**ARC 7800C**, IAB 4/17/24, effective 5/22/24]

281—96.6(423E,423F) Award process.

96.6(1) *Department determination.* The department will make the final determination on approval of certificates of need.

96.6(2) *Notification.* The department will notify applicants no later than two weeks following the date of receipt of the recommendations from the SBRC.

[**ARC 7800C**, IAB 4/17/24, effective 5/22/24]

281—96.7(423E,423F) Applicant responsibilities.

96.7(1) *Change in the project.* If a school district significantly changes the proposed project, the school district shall notify the department within ten working days of the change and submit a new application for a certificate of need for the newly changed project.

96.7(2) *Accounting for the funding.* All revenues and all expenditures from the statewide school infrastructure amounts are to be separately identified and accounted for in a capital projects fund established for the statewide sales and services tax for school infrastructure proceeds.

96.7(3) *Withdrawal of application.* If a school district is granted a certificate of need for a project and the school district elects not to continue with the project, the school district is to notify the department within ten working days following the board action to discontinue the project.

96.7(4) *Forfeiture of certificate.* Failure to comply with any of the rules in this chapter or provide information that is included in the certificate of need application or that is requested by the department may result in the forfeiture of the certificate of need or removal from the application cycle.

[**ARC 7800C**, IAB 4/17/24, effective 5/22/24]

281—96.8(423E,423F) Appeal of certificate denial. Any applicant may appeal the denial of a properly submitted application for certificate of need to the director of the department. Appeals are to be (1) in writing, (2) received within ten working days of the date of the notice of the decision to deny, and (3) based on a contention that the process was conducted outside of statutory authority; violated state or federal law, policy, or rule; did not provide adequate public notice; was altered without adequate public notice; or involved conflict of interest by staff or committee members. The hearing and appeals procedures found in 281—Chapter 6 that govern the director's decisions apply to any appeal of denial.

[**ARC 7800C**, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 423E and 423F.

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CHAPTER 97
SUPPLEMENTARY WEIGHTING

Chapter rescission date pursuant to Iowa Code section 17A.7: 5/22/29

281—97.1(257) Definitions. For the purpose of this chapter, the following definitions apply:

"Actual enrollment" means the enrollment determined pursuant to Iowa Code section 257.6(1)*"a."*

"Career academy" means a program of study as defined in 281—Chapter 46. A course offered by a career academy does not qualify as a regional academy course. A career academy course may qualify as a concurrent enrollment course if it meets the provisions of Iowa Code section 261E.8.

"Class" means a course for academic credit that applies toward a high school or community college diploma.

"Department" means the Iowa department of education.

"Enrolled" means that a student has registered with the school district and is taking part in the educational program.

"Fraction of a school year" means the product of the minutes per day of class multiplied by the number of days per year the class meets divided by the product of the total number of minutes in a school day multiplied by the total number of days in a school year. All minutes available in a normal day will be used in the calculation.

"ICN" means the Iowa Communications Network.

"Political subdivision" means a political subdivision in the state of Iowa and includes a city, a township, a county, a public school district, a community college, an area education agency, or an institution governed by the state board of regents (Iowa State University, University of Iowa, and University of Northern Iowa).

"Project lead the way" means the nonprofit organization with 501(c)(3) tax-exempt status that provides rigorous and innovative science, technology, engineering, and mathematics education curriculum founded in fundamental problem-solving and critical-thinking skills while integrating national academic and technical learning standards.

"Regional academy" means an educational program established by a school district to which multiple school districts send students in grades 7 through 12. The curriculum will include advanced-level courses and, in addition, may include career-technical courses, Internet-based courses, and coursework delivered via the ICN. Regional academy courses do not qualify as concurrent enrollment courses and do not generate any postsecondary credit. School districts participating in regional academies are eligible for supplementary weighting as provided in Iowa Code section 257.11(2).

"Superintendent" means the same as defined in Iowa Code section 256.145(15).

"Supplant" means the community college's offering a course that consists of substantially the same concepts and skills as the content of a course provided by the school district or accredited nonpublic school or the community college's offering a course that is required by the school district or accredited nonpublic school in order to meet the minimum accreditation standards in Iowa Code section 256.11. If a student is unable to earn credit in both courses, then the two courses would be deemed similar enough in content and skills to be defined as supplanting.

"Supplementary weighting plan" means a plan as defined in this chapter to add a weighting for each eligible Iowa resident student who is enrolled in an eligible class taught by a teacher employed by another school district or taught by a teacher employed jointly with another school district or sent to and enrolled in an eligible class in another school district or sent to and enrolled in an eligible community college class. The supplementary weighting for each eligible class is calculated by multiplying the fraction of a school year that class represents by the number of eligible Iowa resident students enrolled in that class and then multiplying that figure by the weighting factor established in Iowa Code chapter 257.

"Teacher" means the same as defined in Iowa Code section 256.145(16).

[**ARC 7801C**, IAB 4/17/24, effective 5/22/24]

281—97.2(257) Supplementary weighting plan.

97.2(1) *Eligibility.* Except if listed under subrule 97.2(7), a resident student is eligible for supplementary weighting if the student is eligible to be counted as a resident student for certified enrollment and if one of the following conditions is met pursuant to Iowa Code section 257.11:

a. Resident student attends class in another school district pursuant to subrule 97.2(2), or

b. Resident student attends class taught by a teacher employed by another school district pursuant to subrule 97.2(3), or

c. Resident student attends class taught by a teacher jointly employed by two or more school districts pursuant to subrule 97.2(4), or

d. Resident student attends class in a community college for college credit pursuant to subrule 97.2(5), or

e. Resident student attends class in a community college for college credit pursuant to subrule 97.2(6).

Other than as listed in paragraphs 97.2(1)*"a"* to *"e"* above and in rules 281—97.3(257), 281—97.4(257), and 281—97.7(257), no other sharing arrangement is eligible for supplementary weighting.

97.2(2) *Attend class in another school district.* Students attending class in another school district will be eligible for supplementary weighting under paragraph 97.2(1)*"a"* only if the school district does not have a licensed and endorsed teacher available within the school district to teach the course(s) being provided.

97.2(3) *Attend class taught by a teacher employed by another school district.* Students attending class taught by a teacher employed by another school district will be eligible for supplementary weighting under paragraph 97.2(1)*"b"* only if the school district does not have a licensed and endorsed teacher available within the school district to teach the course(s) being provided.

97.2(4) *Attend class taught by a teacher jointly employed with another school district.* All of the following conditions must be met for any student attending class taught by a teacher jointly employed to be eligible for supplementary weighting under paragraph 97.2(1)*"c."* The school districts jointly employing the teacher must have:

a. A joint teacher evaluation process and instruments.

b. A joint teacher professional development plan.

c. One single salary schedule.

Except for joint employment contracts that meet the provisions of paragraphs *"a"* to *"c"* above, no two or more school districts will list each other for the same classes and grade levels.

97.2(5) *Attend class in a community college.* To be eligible for supplementary weighting, a course will comply with Iowa Code section 257.11(3).

97.2(6) *Attend a project lead the way class in a community college.* Students attending a science, technology, engineering, or mathematics class that uses an activities-based, project-based, and problem-based learning approach and that is offered collaboratively by the students' school district and a community college in partnership with a nationally recognized provider of rigorous and innovative science, technology, engineering, and mathematics curriculum are eligible for supplementary weighting under paragraph 97.2(1)*"e"* if the curriculum provider is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

97.2(7) *Ineligibility.* The following students are ineligible for supplementary weighting:

a. Nonresident students attending the school district under any arrangement except open enrolled in students, nonpublic shared-time students, or dual enrolled competent private instruction students in grades 9 through 12.

b. Students eligible for the special education weighting plan provided in Iowa Code section 256B.9 when being served by special education programs or services that carry additional weighting.

c. Students in whole-grade sharing arrangements except under sharing pursuant to subrule 97.2(5) or 97.2(7).

d. Students open enrolled out except under sharing pursuant to subrule 97.2(5) or paragraph 97.6(1)*"c."*

e. Students open enrolled in, except under sharing pursuant to subrule 97.2(5) or paragraph 97.6(1)*"c,"* when the students are under competent private instruction and are dual enrolled in grades 9 through 12.

f. Students participating in shared services rather than shared classes except under sharing pursuant to rule 281—97.7(257).

g. Students taking postsecondary enrollment options (PSEO) courses.

h. Students enrolled in courses or programs offered by their resident school districts unless those courses meet the conditions for attending classes in a community college under subrule 97.2(5) or if the teacher is employed by another school district pursuant to subrule 97.2(3) or if a teacher is jointly employed with another school district pursuant to subrule 97.2(4) or if the courses are included in the curriculum of an in-district regional academy pursuant to subrule 97.4(1) or if the courses are in-district virtual classes provided via ICN video services to other districts pursuant to subrule 97.6(1).

i. Students enrolled in courses or programs taught by teachers employed by their resident school districts unless the employment meets the criteria of joint employment with another school district under subrule 97.2(4) or if the criteria in subrule 97.2(5) are met for students attending class in a community college or if the courses are included in the curriculum of an in-district regional academy pursuant to subrule 97.4(1) or if the courses are in-district virtual classes provided via ICN video services to other districts pursuant to subrule 97.6(1).

j. Students enrolled in an at-risk program or alternative school program when being served by such program.

k. Students enrolled in summer school courses.

97.2(8) *Whole-grade sharing.* If all or a substantial portion of the students in any grade are shared with another one or more school districts for all or a substantial portion of a school day, then no students in that grade level are eligible for supplementary weighting except as authorized by rule 281—97.5(257). No students in the grade levels who meet the criterion in this subrule are eligible for supplementary weighting even in the absence of an agreement executed pursuant to Iowa Code sections 282.10 through 282.12. A district that discontinues grades pursuant to Iowa Code section 282.7 is deemed to be whole-grade sharing the resident students in those discontinued grades for purposes of these rules.

a. In a one-way whole-grade sharing arrangement, the receiving district may count its resident students in the grade levels that are whole-grade shared if the resident students are shared pursuant to subrule 97.2(2), 97.2(3), or 97.2(5).

b. In a one-way whole-grade sharing arrangement, the receiving district may not count its resident students in the grade levels that are whole-grade shared pursuant to subrule 97.2(3) if the teacher is employed by the same district that is sending students under the whole-grade sharing arrangement.

97.2(9) *Due date.* Supplementary weighting will be included with the certified enrollment that is due October 15 following the October 1, or the first Monday in October if October 1 falls on a Saturday or Sunday, on which the enrollment was taken.

[**ARC 7801C**, IAB 4/17/24, effective 5/22/24]

281—97.3(257) Supplementary weighting plan for a regional academy.

97.3(1) *Eligibility.* Except if listed under subrule 97.2(6), a resident student is eligible for supplementary weighting if the student is eligible to be counted as a resident student for certified enrollment and if all of the following criteria are met:

a. Two or more Iowa school districts, other than a whole-grade sharing partner district, send students to advanced-level courses that are included in the curriculum of the regional academy, and these students are eligible for supplementary weighting under paragraph 97.2(1)*"a"* or *"c."* In addition, for the host district to qualify for the minimum weighting pursuant to subrule 97.3(4), one or more Iowa school districts, other than a whole-grade sharing partner district, must send students to career-technical classes that are included in the curriculum of the regional academy.

b. The regional academy is located in the district.

c. The grade levels include one or more grades seven through twelve.

d. The curriculum is an organized course of study, adopted by the board, that includes a minimum of two advanced-level courses that are not part of a career-technical program. An advanced-level course is a

course that is above the level of the course units required as minimum curriculum in 281—Chapter 12 in the host district.

e. The resident students are not eligible for supplementary weighting under another supplementary weighting plan.

f. No resident or nonresident students are attending the regional academy under a whole-grade sharing arrangement as defined in subrule 97.2(7).

g. Two or more sending districts that are whole-grade sharing partner districts will be treated as one sending district for purposes of paragraph 97.3(1)*"a."*

h. The school districts participating in a regional academy will enter into an agreement on how the funding generated by the supplementary weighting received will be used and will submit the agreement, as well as a copy of the minutes of meetings of the local school district boards of directors in which the boards approved the agreement, to the department for approval by October 1 of the year in which the districts intend to request supplementary weighting for the regional academy.

97.3(2) *Weighting.* Resident students eligible for supplementary weighting pursuant to subrule 97.3(1) are eligible for a weighting of one-tenth of the fraction of a school year during which the pupil attends courses at the regional academy in which nonresident students are enrolled pursuant to paragraph 97.3(1) *"a."*

97.3(3) *Maximum weighting.* The maximum amount of additional weighting for which a school district establishing a regional academy is eligible is an amount corresponding to 30 full-time-equivalent pupils.

97.3(4) *Minimum weighting.* The minimum amount of additional weighting for which a school district establishing a regional academy is eligible is an amount corresponding to 15 full-time-equivalent pupils if the academy provides both advanced-level courses and career-technical courses.

97.3(5) *Additional programs.* If all of the criteria in subrule 97.3(1) are met, the regional academy may also include in its curriculum career-technical courses, Internet-based courses and ICN courses.

97.3(6) *Career academy.* A career academy is not a regional academy for purposes of these rules.

[**ARC 7801C**, IAB 4/17/24, effective 5/22/24]

281—97.4(257) Supplementary weighting plan for whole-grade sharing.

97.4(1) *Whole-grade sharing.* A school district that participates in a whole-grade sharing arrangement executed pursuant to Iowa Code sections 282.10 to 282.12 and that has adopted a board resolution to study dissolution or has adopted a board resolution jointly with all other affected boards to study reorganization to take effect on or before July 1, 2024, is eligible to assign a weighting of one-tenth of the fraction of the school year during which resident pupils attend classes pursuant to paragraph 97.2(1)*"a," "b,"* or *"c."* A school district participating in a whole-grade sharing arrangement is eligible for supplementary weighting under this subrule for a maximum of three years. Receipt of supplementary weighting for the second year and for the third year is conditioned upon submission of information resulting from the study to the school budget review committee indicating progress or continued progress toward the objective of dissolution or reorganization on or before July 1, 2024.

97.4(2) *Contiguous districts.* School districts that adopt a board resolution jointly with all other affected boards to study reorganization must be contiguous school districts. If two or more of the affected districts are not contiguous to each other, all districts separating those districts must be a party to the whole-grade sharing arrangement and the board resolution adopted jointly to study reorganization.

97.4(3) *Consecutive years.* A school district that is eligible to add a supplementary weighting for resident students attending classes under a whole-grade sharing arrangement pursuant to subrule 97.4(1) is not required to utilize consecutive years. However, the final year in which a supplementary weighting may be added on October 1 for this purpose will not be later than the school year that begins July 1, 2024.

97.4(4) *Change in sharing districts.* A school district that is eligible to add a supplementary weighting for resident students attending classes under a whole-grade sharing arrangement pursuant to subrule 97.4(1) may enter into a whole-grade sharing arrangement with one or more different districts for its second or third year of eligible weighting by adopting and filing a new joint board resolution pursuant to this subrule. Establishing a new whole-grade sharing arrangement does not extend the maximum number of years for which a school district is eligible.

97.4(5) *Filing board resolutions.* Each school district that adopts a board resolution to study dissolution or has adopted a board resolution jointly with all other affected boards to study reorganization will file a copy of the board resolution with the department not later than October 1 on which date the district intends to request supplementary weighting for whole-grade sharing.

97.4(6) *Filing progress reports.* Each school district that intends to assign a supplementary weighting to resident students attending class in a whole-grade sharing arrangement in any year following the initial year for which supplementary weighting for whole-grade sharing was approved will file a report of progress toward reorganization with the school budget review committee, on forms developed by the department, no later than August 1 preceding October 1 on which date the district intends to request the second or third year of supplementary weighting for whole-grade sharing.

a. The progress report will include the following information:

(1) Names of districts with which the district is studying reorganization.

(2) Descriptive information on the whole-grade sharing arrangement.

(3) Information on whether a plan for reorganization has been approved by the AEA and an election date has been set.

b. The report must indicate progress toward a reorganization or dissolution to occur on or before July 1, 2024. The indicators of progress include:

(1) For the second year of supplementary weighting, establishing a reorganization committee.

(2) For the third year of supplementary weighting, having an AEA-approved plan for reorganization and a date set for an election on the proposed reorganization.

c. The school budget review committee will consider each progress report at its first regular meeting of the fiscal year and will accept the progress report or reject the progress report with comments. The reports will be evaluated on demonstrated progress within the past year toward reorganization or dissolution.

d. A school district whose progress report is not accepted will be allowed to submit a revised progress report at the second regular meeting of the school budget review committee. The committee will accept or reject the revised progress report.

e. If the school budget review committee rejects the progress report and the district does not submit a revised progress report or if the school budget review committee rejects the revised progress report, the school district is not eligible for supplementary weighting for whole-grade sharing but may reapply in a subsequent year.

f. In the event that an election on reorganization fails to pass after the school budget review committee has approved a district's application for whole-grade sharing supplementary weighting and prior to January 1 of the year in which the reorganization was to take effect, a district may rescind the request for whole-grade sharing supplementary weighting by submitting a request to the school budget review committee asking to withdraw the application. The request to withdraw the application must be completed no later than one week prior to the committee's second regular meeting.

[**ARC 7801C**, IAB 4/17/24, effective 5/22/24]

281—97.5(257) Supplementary weighting plan for ICN video services.

97.5(1) *Eligibility.* Except for students listed under subrule 97.2(6), a resident student is eligible for supplementary weighting if the student is eligible to be counted as a resident student for certified enrollment, is not eligible for supplementary weighting for the same course under another supplementary weighting plan, and meets any of the criteria in paragraph 97.5(1)*"a," "b,"* or *"c."* For purposes of this subrule, the portion of a course offered via ICN video services will be considered separately from the portion of the course not offered via ICN video services. Eligible students include:

a. Resident students who receive a virtual class provided by another school district via ICN video services.

b. Resident students who attend a virtual class that the resident district is providing to students in one or more other school districts via ICN video services.

c. Resident students who receive a virtual community college class via ICN video services. The community college class must be a course eligible for supplementary weighting under the criteria listed in subrule 97.2(5).

97.5(2) *Weighting.* Resident students eligible for supplementary weighting pursuant to subrule 97.5(1) are eligible for a weighting of one-twentieth of the fraction of the school year during which the pupil attends the virtual class.

97.5(3) *Payment to teachers.* A school district that includes students in a virtual class for supplementary weighting will reserve 50 percent of the supplementary weighting funding the district will receive as a result of including the resident students in the virtual class for supplementary weighting as additional pay for the virtual class teacher.

a. The employer of the virtual class teacher will make the payment.

b. The additional pay includes salary and the employer's share of FICA and IPERS.

c. The employer will pay the virtual class teacher during the same school year in which the virtual class is provided.

d. The employer may pay the virtual class teacher at the conclusion of the virtual class or may pay the teacher periodic payments that represent the portion of the virtual class that has been provided. The employer may not pay the teacher prior to services being rendered.

e. The additional pay is calculated as 0.5 multiplied by the supplementary weighting for the virtual class multiplied by the district cost per pupil in the subsequent budget year.

f. If the teacher's contract includes additional pay for teaching the virtual class, the teacher will receive the higher amount of the additional pay in the contract or the amount of the additional pay calculated pursuant to paragraphs 97.5(3)*"b"* and *"e."* For purposes of this comparison, the employer will compare the salary portions only.

g. The contract between the agencies will provide for the additional pay for the teacher of the virtual class. That 50 percent of the supplementary weighting funding would be paid in addition to the tuition sent to the providing district or community college to be paid as additional pay to its teacher employee.

[**ARC 7801C**, IAB 4/17/24, effective 5/22/24]

281—97.6(257) Supplementary weighting plan for operational services.

97.6(1) *Eligibility.* Supplementary weighting is available if all of the following criteria are met:

a. The district shares a discrete operational function with one or more other political subdivisions pursuant to a written contract.

b. The district shares an operational function for at least 20 percent of the contract time period during the fiscal year that is customary for a full-time employee in the operational function for at least 20 percent of the contract time period during the fiscal year. The 20 percent is measured each fiscal year and for each discrete operational function.

c. Personnel shared as part of an operational function are employees of one of the sharing partners but are not employees of more than one of the sharing partners.

d. If the district shares an operational function with more than one political subdivision, the sharing arrangement is listed only once for purposes of supplementary weighting.

e. If the district shares more than one individual in the same operational function, that operational function will be listed only once for the purposes of supplementary weighting.

f. No individual personnel will be included for operational function sharing more than once for supplementary weighting in the same fiscal year.

g. If more than one sharing arrangement is implemented in any one operational function area and the services shared are substantially similar as determined by the department, only the sharing arrangement implemented first will be eligible for supplementary weighting.

h. The operational function areas shared include one or more of the areas listed in subrule 97.6(2).

97.6(2) *Operational function area eligibility.* "Operational function sharing" means sharing of managerial personnel in the discrete operational function areas of superintendent management, business management, human resources management, student transportation management, facility operation or maintenance management, curriculum director, master social worker, independent social worker, school counselor, special education director, work-based learning coordinator, mental health professional if the mental health professional holds a statement of recognition issued by the board of educational examiners, school resource officer, or college and career transition counselor or coordinator. "Operational function sharing" does not mean sharing of clerical personnel or school principals. The operational function sharing

arrangement does not need to be a newly implemented sharing arrangement in order to be eligible for supplementary weighting.

a. Superintendent management.

(1) Shared personnel perform the services of a superintendent, in the case of a school district, or chief administrator, in the case of an area education agency, or executive administrator, in the case of other political subdivisions. An individual performing the function of a superintendent or chief administrator must be properly licensed for that position.

(2) Clerical or other support services personnel in the superintendent function area or executive administrator function area will not be considered shared superintendent management under this subrule.

(3) Shared superintendent services or executive administrator services does not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

b. Business management.

(1) Shared personnel perform the services of managing the business operations. Managing business operations includes personnel performing the duties of a business manager or school business official, or personnel performing duties including those listed in Iowa Code chapter 291 for a board secretary or board treasurer.

(2) Services of clerical personnel, school administration managers, superintendents, principals, teachers, board officers except those listed in subparagraph 97.6(2)*"b"*(1), or any other nonbusiness administration personnel are not considered shared business management under this subrule.

(3) Shared business management does not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

c. Human resources management.

(1) Shared personnel perform the services of managing human resources.

(2) Services of clerical personnel, superintendents, principals, curriculum directors, teachers, or board officers are not considered shared human resources management under this subrule.

(3) Shared human resources management does not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

d. Student transportation management.

(1) Shared personnel include transportation directors or supervisors. Shared personnel must perform services related to transportation.

(2) Services of school business officials, business managers, school administration managers, clerical or paraprofessional personnel, school bus mechanics, and school bus drivers are not considered shared student transportation management under this subrule.

(3) Shared transportation management does not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

e. Facility operations and maintenance.

(1) Shared personnel include facility managers and supervisors of buildings or grounds. Shared personnel perform services related to facility operations and maintenance.

(2) Services of school business officials, business managers, school administration managers, clerical personnel or custodians are not considered shared facility operations and maintenance management for supplementary weighting under this subrule.

(3) Shared facility operations and maintenance management do not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

f. Curriculum director.

(1) Shared personnel perform the services of a curriculum director.

(2) Technology directors and clerical, paraprofessional, or other support services personnel in the improvement of instruction function area are not considered a shared curriculum director under this subrule.

(3) Shared curriculum director services do not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

g. School counselor.

(1) Shared personnel perform the services of a school counselor. An individual performing the function of a school counselor must be properly licensed for that position.

(2) Deans of students, social workers, or clerical, paraprofessional, or other support services personnel in the guidance services function area are not considered a shared school counselor under this subrule.

(3) Shared school counselor services do not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

h. School social worker.

(1) Shared personnel perform the services of a school social worker. An individual performing the function of a school social worker must be properly licensed for that position.

(2) Social workers providing services required to be provided by an area education agency are not considered a shared school social worker under this subrule.

(3) Shared school social worker services do not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

i. Special education director.

(1) Shared personnel perform the services of a special education director. An individual performing the function of a special education director must be properly licensed for that position.

(2) Teachers, superintendents, principals, curriculum directors, or other support services personnel in the improvement of instruction services function area are not considered a shared special education director under this subrule.

(3) Shared special education director services do not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

j. Work-based learning coordinator.

(1) Shared personnel perform the services of a work-based learning coordinator. An individual performing the function of a work-based learning coordinator must be properly trained for that position.

(2) Superintendents, principals, curriculum directors, deans of students, school counselors, or other support services personnel in the guidance services function area are not considered a shared work-based learning coordinator under this subrule.

(3) "Work-based learning coordinator" means the same as defined in Iowa Code section 257.11(5)*"a"*(2).

(4) Shared work-based learning coordinator services do not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

k. Mental health professional.

(1) Shared personnel perform the services of a mental health professional. An individual performing the function of a mental health professional must hold a statement of professional recognition issued by the board of educational examiners.

(2) Deans of students, school counselors, or other support services personnel in the guidance services function area are not considered a shared mental health professional under this subrule.

(3) Shared mental health professional services do not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

l. School resource officer.

(1) Shared personnel perform the function of a school resource officer. An individual performing the function of a school resource officer must meet the definition in subparagraph 97.6(2)*"l"*(3).

(2) Deans of students, school business managers, school administration managers, school counselors, clerical personnel, paraprofessionals, private security guards, or custodians are not be considered shared school resource officers for supplementary weighting under this subrule.

(3) "School resource officer" means the same as defined in 34 U.S.C. Section 10389, as effective on February 7, 2024.

(4) Shared school resource officer services do not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

m. College and career transition counselor or coordinator.

(1) Shared personnel perform the services of a college and career transition counselor or coordinator as defined in subparagraph 97.6(2)*"m"*(3).

(2) Superintendents, principals, curriculum directors, deans of students, school counselors, work-based learning coordinators, or other support services personnel in the guidance services function area are not considered a shared college and career transition counselor or coordinator under this subrule.

(3) "College and career transition counselor or coordinator" means the same as defined in Iowa Code section 257.11(5)*"a"*(2).

(4) Shared college and career transition counselor or coordinator services do not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

97.6(3) *Eligibility.* The supplementary weighting for eligible shared operational functions may be included beginning on October 1, 2013.

a. Receipt of supplementary weighting is conditioned upon the submission of information provided in the format prescribed by the department as part of the BEDS fall data collection.

b. The documentation on the BEDS fall data collection will be filed no later than the published deadline for that data collection.

97.6(4) *Consecutive years.* A school district that is eligible to add a supplementary weighting for a shared operational function is not required to utilize consecutive years. However, the final year in which a supplementary weighting may be added on October 1 for this purpose will not be later than the school year that begins July 1, 2034.

97.6(5) *Change in sharing partners.* A school district that is eligible to add a supplementary weighting for a shared operational function may enter into an operational function sharing arrangement with one or more different sharing partners.

97.6(6) *Change in shared personnel.* A school district that is eligible to add a supplementary weighting for a shared operational function may enter into an operational function arrangement for a different individual in a substantially similar position.

97.6(7) *Multiple shared operational functions.* A school district that implements more than one sharing arrangement within any discrete operational function area is eligible for supplementary weighting for only one sharing arrangement in that discrete operational function.

97.6(8) *Multiple shared individuals within an operational function.* A school district that implements more than one sharing arrangement within any discrete operational function area, as both the contract holder and the purchaser of services, are not eligible for supplementary weighting if the sharing arrangements would not have been necessary had the district utilized its own properly licensed and qualified employee(s).

97.6(9) *Weighting.* A school district that shares an eligible operational function listed in subrule 97.6(2) is assigned a supplementary weighting as stipulated in Iowa Code section 257.11(5).

97.6(10) *Maximum weighting.* The maximum amount of additional weighting for which a school district participating in operational function sharing is eligible in a budget year is an amount corresponding to 21 full-time equivalent pupils. The maximum additional weighting applies to the total of all operational function sharing rather than to each discrete operational function. Each eligible discrete operational function sharing arrangement is included in the total of all operational function sharing. If the district's total of all discrete operational function sharing exceeds 21 full-time equivalent pupils, the department will make a reduction in the total rather than separately adjusting the discrete operational function sharing that made up the total.

97.6(11) *Uses of funding.* Additional funds provided through supplementary weighting for operational function sharing will be used for any general fund purpose pursuant to rule 281—98.61(24,143,257,275,279,280,285,297,298,298A,301,473,670).

[**ARC 7801C**, IAB 4/17/24, effective 5/22/24]

281—97.7(261E) Concurrent enrollment program contracts between accredited nonpublic schools and community colleges. For the purpose of determining funding to the community college, subject to an appropriation to the department for this purpose, a student enrolled in a unit of concurrent enrollment coursework offered through a contract by an accredited nonpublic school with an Iowa community college

pursuant to Iowa Code section 261E.8(2) will be counted as if the student were assigned a weighting as described in subrule 97.2(5).

97.7(1) *Eligibility.* To be eligible for supplementary weighting, a course will comply with Iowa Code section 257.11(3).

97.7(2) *Reporting and billing.* An accredited nonpublic school that enters into a contract for concurrent enrollment courses will submit student and course information as determined by and according to the timeline established by the department. The community college and accredited nonpublic school will verify the submitted information by semesters or the equivalent. Projected supplementary weighting calculations will be available midyear, but payments to community colleges will not be disbursed until final costs are known at the end of the school year. Community colleges will not bill the accredited nonpublic school until all calculations of supplementary weighting for accredited nonpublic schools are completed.

[**ARC 7801C**, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code sections 257.6, 257.11, and 257.12 and chapter 261E.

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[1] March 28, 2012, effective date of 97.1, "regional academy," and 97.4(1)*"c," "h"* delayed 30 days by the Administrative Rules Review Committee at its meeting held March 12, 2012.

[2] November 20, 2013, effective date of ARC 1119C [97.7] delayed until the adjournment of the 2014 General Assembly by the Administrative Rules Review Committee at its meeting held November 8, 2013.

CHAPTER 98
FINANCIAL MANAGEMENT OF CATEGORICAL FUNDING

Chapter rescission date pursuant to Iowa Code section 17A.7: 5/22/29

DIVISION I
GENERAL PROVISIONS

281—98.1(256,257) Definitions. For the purposes of this chapter, the following definitions apply:

"Budgetary allocation" means the portion of the funding that is specifically earmarked for a particular purpose or designated program and that, in the case of the general fund, has been rolled into, or added to, the school district cost per pupil or school district regular program cost. Budgetary allocations may include both state aid and property tax. Budgetary allocations increase budget authority on the first day of the fiscal year for which the allocation has been certified or on the date that the school budget review committee approves the modified supplemental amount for a specific purpose or program; the budget authority remains even if the full amount of revenue is not received or if the local board does not levy a cash reserve. There is no assumption that a school district or area education agency will receive the same amount of revenue as it has received in budget authority due to delinquent property taxes, cuts in state aid, or legislative decisions to fund other instructional programs off the top of state aid. The school district or area education agency must expend the full amount of budget authority for the specific purposes for which it was earmarked. When the school district or state cost per pupil is transferred from one school district to another school district in the form of tuition as required by the Iowa Code, any budgetary allocation that is included in the school district or state cost per pupil will be considered transferred to the receiving school district and will be expended for the specific purpose for which it was earmarked.

"Categorical funding" means financial support from state and federal governments that is targeted for particular categories of students, special programs, or special purposes. This support is in addition to school district or area education agency general purpose revenue, is beyond the basic educational program, and most often has restrictions on its use. Where categorical funding requires a local match, that local match also is considered to be categorical funding. Categorical funding includes both grants in aid and budgetary allocations. Although grants in aid and budgetary allocations are both categorical funding, they are defined separately to distinguish unique characteristics of each type of categorical funding.

"Community education" means a life-long education process concerning itself with every facet that affects the well-being of all citizens within a given community. It extends the role of the school from one of teaching children through an elementary and secondary program to one of providing for citizen participation in identifying the wants, needs, and concerns of the neighborhood community and coordinating all educational, recreational, and cultural opportunities within the community with community education being the catalyst for providing for citizen participation in the development and implementation of programs toward the goal of improving the entire community.

"Grants in aid" means financial support, usually from state or federal appropriations, that is either allocated to the school district or area education agency or for which a school district or area education agency applies. This support is paid separately from state foundation aid. In the general fund, grants in aid become miscellaneous income and increase budget authority when the support is received as revenue.

"Supplement, not supplant" means, when a funding stream contains this provision, that the categorical funding is in addition to general purpose revenues; that categorical funding will not be used to provide services required by federal or state law, administrative rule, or local policy; and that general purpose revenues will not be diverted for other purposes because of the availability of categorical funding. Supplanting is presumed to have occurred if the school district or area education agency uses categorical funding to provide services that it was required to make available under other categorical funding or law, or uses categorical funding to provide services that it provided in prior years from general purpose revenues, or uses categorical funding to provide services to a particular group of children or programs for which it uses general purpose revenues to provide the same or similar services to other groups of children or

programs. These presumptions are rebuttable if the school district or area education agency can demonstrate that it would not have provided the services in question with general purpose revenues if the categorical funding had not been available.

"Technology" means hardware, noninstructional software and software required to provide functionality to the hardware, wireless presenters, networking and connectivity systems, computing storage, website development services, hardware carrying equipment, licensing, and technical assistance for installation of hardware, software, or software updates. Technology does not include such items as instructional software or textbook substitutes as defined in Iowa Code chapter 301, professional development, staff providing support to teachers or students, general supplies, district personnel or individuals/companies hired or contracted in lieu of district personnel, travel, printing costs or media services not listed in this definition, insurance, most purchased services, or similar district functions. Maintenance contracts do not meet the definition of "technology" unless they are actually a license renewal fee; Internet subscriptions, licenses, or fees; cable or satellite services; or very similar services.

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.2(256,257) General finance. The categorical funding provided for various purposes to school districts and area education agencies includes general financial characteristics that are detailed in the following subrules:

98.2(1) *Indirect cost recovery.* Categorical funding provided by the state to school districts or area education agencies is not eligible for indirect cost recovery unless the Iowa Code section authorizing the funding or allocation expressly states that indirect cost recovery is permitted from that source. If the Iowa Code permits indirect cost recovery, the school district or area education agency will utilize its restricted indirect cost rate developed by the department for federal programs from data submitted by the school district or area education agency on its certified annual report.

98.2(2) *Mandatory carryforward.* Notwithstanding the flexibility account as described in rule 281—98.27(257,298A), any portion of categorical funding provided by the state that is not expended by the end of the fiscal year in which it was received by or for which it was allocated to the school district or area education agency will be carried forward as a reserved fund balance and added to the subsequent year's budget for that purpose. The funding can only be expended for the purposes permitted for that categorical funding. Where a local match is required for categorical funding, the amount unexpended at the end of the fiscal year that is carried forward will not be used as part of the required local match.

98.2(3) *Discontinued funding.* In the event that a categorical funding source is discontinued and an unexpended balance remains, the school district or area education agency may do one of, or a combination of, the following:

a. Carry forward the unexpended balance and expend the remaining balance within the subsequent 24 months for the purposes that were allowed in the final year that the funding was allocated or granted prior to discontinuation unless a rule in this chapter provides for a longer period. This option does not apply to market factor incentive pay funding, which may be carried forward until expended, but any expenditures from the market factor incentive pay funding must be appropriate under Iowa Code section 284.11.

b. Transfer the unexpended balance to the flexibility account as described in rule 281—98.27(257,298A).

98.2(4) *Expenditures.* Expenditures from categorical funding are limited to direct costs of providing the program or service for which the funding was intended. Expenditures will not include costs that are allocated costs or that are considered indirect costs or overhead. Expenditures for the functions of administration, business and central services, operation and maintenance of plant, transportation, enterprise and community service operations, facility acquisition and construction, or debt service generally are not allowed from categorical funding unless expressly allowed by the Iowa Code or if the expenditure represents a direct, allowable cost. In order for costs of administration, business and central services, operation and maintenance of plant, transportation, or enterprise and community service operations to be considered direct costs, the costs must be necessary because of something that is unique to the program that is causing the need for the service, not otherwise needed or not otherwise provided to similar programs; the costs must be in addition to those that are normally incurred; and the costs must be measurable directly without allocating. Where a local match is required for categorical funding, that local match requirement

will not be met by the use of other categorical funding except where expressly allowed by the Iowa Code. Expenditures do not include reimbursing the school district or area education agency for expenditures it paid in a previous year in excess of the funding available for that year.

98.2(5) *Restriction on duplication.* The school district or area education agency will not charge the same cost to more than one funding source.

98.2(6) *Excess expenditures.* The school district or area education agency will not charge to categorical funding more expenditures than the total of the current year's funding or allocation, plus any carryforward balance from the previous year, plus any moneys designated from the flexibility account as described in rule 281—98.27(257,298A).

98.2(7) *Commingling prohibited.* Categorical funding shall not be commingled with other funding. All categorical funding will be accounted for separately from other funding. School districts and area education agencies will use a project code and program code as defined by Uniform Financial Accounting for Iowa School Districts and Area Education Agencies, as effective on February 7, 2024, as appropriate or required.

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24; **ARC 8240C**, IAB 10/2/24, effective 11/6/24]

281—98.3 to **98.10** Reserved.

DIVISION II
APPROPRIATE USE OF BUDGETARY ALLOCATIONS

281—98.11(257) Categorical and noncategorical student counts. The certified enrollment data collection includes both student counts related to budgetary allocations for the subsequent budget year that are provided for the purpose of offering a program that is in addition to the basic educational program for a specific category of students and student counts that are general in nature and can be used for any legal general fund purpose. Student counts that are general in nature are used to generate funding through the school aid foundation formula and are not intended to fund a specific program or a specific category of students. General student counts include the basic enrollment of full-time resident students.

Counts for part-time nonpublic students participating in public school classes pursuant to Iowa Code section 257.6(3) and counts for part-time dual enrolled competent private instruction students in grades 9 through 12 are the full-time equivalent enrollment of a regularly enrolled student. Counts for dual enrolled competent private instruction students in grades lower than grade 9 are the legislatively set equivalent of a regularly enrolled full-time student. Counts for part-time nonpublic students and for part-time dual enrolled competent private instruction students in grades 9 through 12 who participate in the postsecondary enrollment option Act classes are the full-time equivalent of a regularly enrolled student based on cost. Because these counts are the full-time equivalent of a regularly enrolled student, and are not in addition to the full-time equivalent, the funding generated within the school aid foundation formula based on these counts is considered general in nature.

Student counts related to categorical budgetary allocations are those that generate funding intended to be used for only that specific category of students being counted or for the specific program for which the additional counts are authorized in the Iowa Code.

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.12(257,299A) Home school assistance program. The home school assistance program (HSAP) is a program for a specific category of students and is provided outside the basic educational program provided to regularly enrolled students by the school district. If a district offers a home school assistance program, the state foundation aid that the district receives pursuant to Iowa Code section 257.6(1)*"a"*(5), and any amount designated for this purpose from the flexibility account as described in rule 281—98.27(257,298A), will be expended for purposes of providing the home school assistance program. However, a district may use items and materials purchased for the home school assistance program for other purposes so long as this use does not prevent or interfere with the item's or material's use by parents or students utilizing the program.

98.12(1) *Appropriate uses of categorical funding.* Appropriate uses of the home school assistance program funding include the following:

a. Instruction for students and assistance for parents with instruction.

b. Services to support students enrolled in a home school assistance program, to support the teaching parents of the students, and to support home school assistance program staff.

c. Salary and benefits for the supervising teacher of the home school assistance program. If the teacher is a part-time home school assistance program teacher and a part-time regular classroom teacher, then the portion of time that is related to providing the home school assistance program can be charged to the program, but the regular classroom portion cannot.

d. Salary and benefits for clerical and office staff of the home school assistance program. If the staff member's employment supports other programs of the school district, only that portion of the staff member's salary and benefits that is related to providing the home school assistance program can be charged to the program.

e. Staff development for the home school assistance program teacher.

f. Travel for the home school assistance program teacher.

g. Resources, materials, computer software, supplies, equipment, and purchased services (1) that are necessary to provide the services of home school assistance and (2) that will remain with the school district for its home school assistance program.

h. A copier and computer hardware that support the home school assistance program.

i. Student transportation exclusively for home school assistance program-approved field trips or other educational activities.

98.12(2) *Inappropriate uses of categorical funding.* Inappropriate uses of the home school assistance program funding include indirect costs or use charges; operational or maintenance costs other than those necessary to operate and maintain the program; capital expenditures other than equipment or the lease or rental of space to supplement existing schoolhouse facilities for the program; student transportation except in cases of home school assistance program-approved field trips or other educational activities; administrative costs other than the costs necessary to administer the program; concurrent and dual enrollment costs, including postsecondary enrollment options program costs; or any other expenditures not directly related to providing the home school assistance program. A home school assistance program shall not provide moneys or resources paid for with this program funding to parents or students utilizing the program. For capital expenditures for lease or rental of classrooms or facilities for this program, the cost will be expended from a capital projects fund. A reimbursement for that cost related to the program will be an interfund transfer to the capital project fund from the program funding.

98.12(3) *Flexibility account.* All or a portion of the amount remaining unexpended and unobligated at the end of a budget year beginning on or after July 1, 2017, may be transferred for deposit into the flexibility account established under Iowa Code section 298A.2, provided all statutory requirements of the home school assistance program have been met, including funding all requests for services and materials from parents or guardians of students eligible to access the program.

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.13(256C,257) Statewide voluntary four-year-old preschool program. The statewide voluntary four-year-old preschool program is a program for a specific category of students. Funding for the program is for the purpose of providing a high-quality early learning environment for four-year-old children whose families choose to access such programs.

98.13(1) *Appropriate uses of categorical funding.* Foundation aid funding provided for the program may be used by approved local programs and community providers for any purpose designated by the board of directors of the school district to meet standards for high-quality preschool instruction and for purposes that directly or indirectly benefit students enrolled in the approved local program. These purposes include the following:

a. Functions of instruction, including instructional equipment and supplies and material and equipment designed to develop students' large and small motor skills.

b. Functions of student support services, including translation services.

c. Functions of staff support services, including professional development for preschool teachers.

d. Up to 5 percent of the allocation can be used for actual documented costs of program administration, outreach activities, and rent for facilities not owned by the school district.

e. Food and beverages used by enrolled students.

f. Safety equipment.

g. Playground equipment and repair costs.

h. Costs of transportation involving children participating in the approved program. The costs of transporting other children associated with the preschool program or transporting as provided in Iowa Code section 256C.3(3)*"h"* may be prorated by the school district.

i. Other direct costs that enhance the approved local program, including contracting with community providers for such services.

j. Costs of attendance for a child who is younger or older than four years old and is enrolled in the program may be paid from these funds, or from another school district account or fund from which preschool program expenditures are authorized by law, if space and funding are available; however, the child will not be counted for statewide voluntary preschool program funding purposes.

98.13(2) *Pass-through funding to community-based providers.* The school district will pass through to a community-based provider for each eligible pupil enrolled in the district's approved local program not less than 95 percent of the per-pupil amount.

a. The community-based provider may use up to 10 percent of the 95 percent portion for documented allowable administrative and operational costs of providing the district's approved local program. The costs of outreach activities, rent for facilities not owned by the school district, and transportation for children participating in the preschool program are also permissive costs allowed as part of the 10 percent under this paragraph.

b. Any portion of the 95 percent not documented as expended for direct instruction or administrative and operational costs as allowed by this rule will be refunded to the district annually on or before July 1.

c. Any portion refunded to the district will be added to the total amount available for the district's approved local program for the subsequent school year, excluding the portion of such unexpended and unobligated funding that the school district authorizes to be transferred to the district's flexibility account described in rule 281—98.27(257,298A).

98.13(3) *Inappropriate uses of categorical funding.* Inappropriate uses of the statewide voluntary four-year-old preschool program funding include indirect costs or use charges, capital expenditures other than equipment, facility acquisition not expressly allowed by the Iowa Code, construction, debt service, operational or maintenance costs or administrative costs that supplant or that exceed 5 percent, or any other expenditures not directly related to providing the statewide voluntary four-year-old preschool program or that supplant existing public funding for preschool programming.

98.13(4) *Flexibility account.* All or a portion of the amount remaining unexpended and unobligated at the end of a budget year beginning on or after July 1, 2017, may be transferred for deposit into the flexibility account established under Iowa Code section 298A.2 and described in rule 281—98.27(257,298A), provided the board of directors of the school district has determined all statutory requirements for the use of such funding have been met.

In order to transfer funds to the flexibility account, the district must have provided preschool programming during the fiscal year for which funding remained unexpended and unobligated to all eligible students for whom a timely application for enrollment was submitted.

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.14(257) Supplementary weighting. Supplementary weighting provides funding in addition to the student count that generates general purpose revenues and is for the purpose of incenting sharing of students and staff between school districts and providing postsecondary opportunities for qualified students. It is assumed that supplementary weighting covers only a portion of the costs of sharing or providing postsecondary opportunities and will be fully expended within the fiscal year. Therefore, school districts need not account for the supplementary weighting funding separate from the general purpose revenues.

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.15(257) Operational function sharing supplementary weighting. Operational function sharing supplementary weighting provides funding in addition to the student count that generates general purpose revenues and is for the purpose of incenting sharing of management-level staff. It is assumed that operational function sharing supplementary weighting covers only a portion of the costs of sharing staff identified in Iowa Code section 257.11(5) and will be fully expended within the period of sharing. Therefore, school districts need not account for the operational function sharing supplementary weighting funding separate from general purpose revenues.
[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.16(257,280) English learner weighting. English learner weighting provides funding in addition to the student count that generates general purpose revenues and is for the purpose of providing funding for the excess costs of instruction of English learners above the costs of instruction of pupils in a regular curriculum. In addition, the school budget review committee may grant a modified supplemental amount to continue funding of the excess costs beyond the five years of weighting. Funding for the English learner weighting and the modified supplemental amount for English learner programs are both categorical funding and may have different restrictions than the federal English learner funding.

98.16(1) *Appropriate uses of categorical funding.* Appropriate uses of funding for the English learner program are those that are direct costs of providing instruction that supplement, but do not supplant, the costs of the regular curriculum. These expenditures include salaries and benefits of teachers and paraeducators; instructional supplies, textbooks, and technology; classroom interpreters; support services to students served in English learner programs above the services provided to pupils in regular programs; support services to instructional staff such as targeted professional development, curriculum development or academic student assessment; and support services provided to parents of English learners and community services specific to English learners.

98.16(2) *Inappropriate uses of categorical funding.* Inappropriate uses of funding for the English learner program include indirect costs, operational or maintenance costs, capital expenditures other than equipment, student transportation, administrative costs, or any other expenditures not directly related to providing the English learner program beyond the scope of the regular classroom.
[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.17(256B,257) Special education weighting. Special education weighting provides funding in addition to the student count that generates general purpose revenues for the purpose of providing additional instruction and services to an identified group of students.
[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.18(257) At-risk program, alternative program or alternative school, and potential or returning dropout prevention program formula supplementary weighting. Formula supplementary weighting provides funding in addition to the student count that generates general purpose revenues for the purpose of providing additional instruction and services to students identified as at-risk, potential or returning dropouts, and secondary students attending an alternative program or alternative school pursuant to Iowa Code section 257.11(4)*"a."*

98.18(1) *Appropriate uses of categorical funding.* Appropriate uses of at-risk formula supplementary weighting funding include costs to develop or maintain programs for at-risk pupils, alternative programs and alternative schools for secondary students, and returning dropout and dropout prevention programs. Appropriate uses include those identified in subrule 98.21(2).

98.18(2) *Inappropriate uses of categorical funding.* Inappropriate uses of at-risk formula supplementary weighting program funding include those identified in subrule 98.21(3).
[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.19(257) Reorganization incentive weighting. Reorganization incentive weighting provides funding in addition to the student count that generates general purpose revenues and is for the purpose of incenting reorganization of school districts to increase student learning opportunities. It is assumed that reorganization incentive weighting covers only a portion of the costs of reorganizing and will be fully

expended within the fiscal year. Therefore, school districts need not account for the reorganization incentive weighting funding separate from the general purpose revenues.
[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.20(257) Gifted and talented program. Gifted and talented program funding is included in the school district cost per pupil calculated for each school district under the school foundation formula. The per-pupil amount increases each year by the supplemental state aid percentage. This amount must account for not more than 75 percent of the school district's total gifted and talented program budget. The school district must also provide a local match from the school district's regular program district cost, and the local match portion must be a minimum of 25 percent of the total gifted and talented program budget. In addition, school districts may receive donations and grants, and the school district may contribute more local school district resources toward the gifted and talented program. The 75 percent portion, the local match, amounts designated from the flexibility account as described in rule 281—98.27(257,298A), and all donations and grants will be accounted for as categorical funding.

The purpose of the gifted and talented funding described in Iowa Code section 257.46 is to provide for identified gifted students' needs beyond those provided by the regular school program pursuant to each gifted student's individualized plan. The funding will be used only for expenditures that are directly related to providing the gifted and talented program.

98.20(1) *Appropriate uses of categorical funding.* Appropriate uses of the gifted and talented program funding include:

a. Salary and benefits for the teacher of gifted and talented students. If the teacher is a part-time gifted and talented and a part-time regular classroom teacher, then only the portion of time that is related to the gifted and talented program may be charged to the program.

b. Staff development for the gifted and talented teacher.

c. Resources, materials, software, supplies, equipment, and purchased services that meet all of the following criteria:

(1) Meet the needs of K through 12 identified students,

(2) Are beyond those provided by the regular school program,

(3) Are necessary to provide the services listed on the gifted students' individualized plans, and

(4) Will remain with the K through 12 gifted and talented program.

d. Student transportation exclusively for approved gifted and talented program field trips or other educational activities.

98.20(2) *Inappropriate uses of categorical funding.* Inappropriate uses of the gifted and talented program funding include indirect costs or use charges, operational or maintenance costs, capital expenditures other than equipment, student transportation other than field trips exclusive to this program, administrative costs, or any other expenditures not directly related to providing the gifted and talented program beyond the scope of the regular classroom.

98.20(3) *Provisions for teacher salary supplement use.* Beginning July 1, 2023, all or a portion of the money carried forward from a prior year or received in the current year as gifted and talented funds may be restricted for use limitations described in rule 281—98.24(257,284).
[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.21(257) At-risk program, alternative program or alternative school, and potential or returning dropout prevention program—modified supplemental amount. A modified supplemental amount is available through a school district-initiated request to the school budget review committee pursuant to Iowa Code sections 257.38 through 257.41. This amount must account for no more than 75 percent of the school district's total at-risk program, alternative program or alternative school, and potential or returning dropout budget. The school district must also provide a local match from the school district's regular program district cost, and the local match portion must be a minimum of 25 percent of the total program budget. In addition, school districts may receive donations and grants, and the school district may contribute more local school district resources toward the program. The 75 percent portion, local match, previous year carryforward, amounts designated from the flexibility account as described in rule 281—98.27(257,298A), and all donations and grants will be accounted for as categorical funding.

98.21(1) *Purpose of categorical funding.* The purpose of the modified supplemental amount is to provide funding to meet the needs of identified students for costs in excess of the amount received under rule 281—98.18(257) pursuant to Iowa Code section 257.11(4). The funding will be used only for expenditures that are directly related to the district's board-adopted program plan established pursuant to Iowa Code sections 257.38 through 257.41.

a. Returning dropouts are resident pupils who have been enrolled in a school district in any of grades 7 through 12 who withdrew from school for a reason other than transfer to another school or school district and who subsequently reenrolled in a public school in the school district.

b. Potential dropouts are resident pupils who are enrolled in a school district who demonstrate poor school adjustment as indicated by two or more of the following:

(1) High rate of absenteeism, truancy, or frequent tardiness.

(2) Limited or no extracurricular participation or lack of identification with school, including to expressed feelings of not belonging.

(3) Poor grades, including failing in one or more school subjects or grade levels.

(4) Low achievement scores in reading or mathematics that reflect achievement at two years or more below grade level.

(5) Children in grades kindergarten through 3 who meet the definition of at-risk children adopted by the department of education.

98.21(2) *Appropriate uses of categorical funding.* Appropriate uses of the funding for a board-adopted program include:

a. Salary and benefits for staff, including instructional staff, instructional support staff, administrative staff, and guidance counselors; salary and benefits or contract payments for psychologists licensed under Iowa Code chapter 154B, licensed independent social workers or master social workers under Iowa Code chapter 154C, licensed mental health counselors under Iowa Code chapter 154D; and salaries and benefits for school-based youth services staff dedicated to providing services directly and exclusively to the identified students participating in the adopted program beyond the services provided by the school district to students who are not identified as at risk or as potential or returning dropouts. However, if the staff person works part-time or on a contract basis with students who are participating in the approved program and has another unrelated staff assignment, only the portion of the person's time that is related to the program or with such students may be charged to the program funding. The school district will have the authority to designate in its adopted program plan the portion of the person's time and related salary and benefits or contract payment amount dedicated to this purpose.

For purposes of this paragraph, an alternative setting may be necessary to provide for a program that is offered at a location off school grounds and that is intended to serve student needs by improving relationships and connections to school, decreasing truancy and tardiness, providing opportunities for course credit recovery, or helping students identified as at risk to accelerate through multiple grade levels of achievement within a shortened time frame.

b. Professional development for all staff identified in paragraph 98.21(2)*"a"* working with identified students under an adopted program.

c. Research-based resources, materials, software, supplies, equipment, and purchased services that meet all of the following criteria:

(1) Meet the needs of kindergarten through grade 12 identified students,

(2) Are beyond those provided by the regular school program,

(3) Are necessary to provide the services listed in the school district's adopted at-risk or returning dropout and dropout prevention program plan, and

(4) Will remain with the kindergarten through grade 12 at-risk program, alternative program or alternative school, or returning dropout and dropout prevention program.

d. Transportation provided by the school district exclusively to transport identified students to an alternative school or alternative program outside a student's regular attendance center, located in and provided by another Iowa school district, or an extended school year program.

e. The portion of the maximum tuition allowed by Iowa Code section 282.24 that corresponds to the portion exclusively providing direct additional instruction and services to an identified group of students above the costs of instruction of pupils in a regular curriculum.

f. Instructional costs necessary to address the behavior of a child during instructional time when those services are not otherwise provided to students who do not require special education and when the costs exceed the costs of instruction of pupils in a regular curriculum, the costs exceed the maximum tuition rate prescribed in Iowa Code section 282.24, the child has not been placed in a facility operated by the state, and all of the following apply:

(1) The child does not require special education.

(2) The child is not placed by the department of health and human services or a court in a residential or day treatment program where the treatment necessary to address the student's behavior was included in the contract with the placement agency.

(3) The child is not placed in a hospital unit, health care facility, psychiatric medical institution for children or other treatment facility where the cost of treatment necessary to address the student's behavior is covered by insurance or Medicaid.

(4) The board of directors of the district of residence has determined that the child is likely to inflict self-harm or likely to harm another student.

g. Costs incurred for a program intended to address high rates of absenteeism, truancy, or frequent tardiness.

h. Amounts that a school district receives as formula supplementary weighting pursuant to Iowa Code section 257.11(4)*"a"* or as a modified supplemental amount received under Iowa Code section 257.41 may be used in the budget year for purposes of providing districtwide, buildingwide, or grade-specific at-risk and dropout prevention programming targeted to nonidentified students.

i. School security personnel costs.

j. Any purpose determined by the board of directors that directly benefits students participating in the adopted program.

98.21(3) *Inappropriate uses of categorical funding.* Inappropriate uses of the modified supplemental amount program funding include indirect costs or use charges, operational or maintenance costs, capital expenditures other than equipment, expenses related to the routine duties and activities performed by a staff member under paragraph 98.21(2)*"a"* with identified students that are also provided to all students, or any other expenditures not directly related to providing the board-adopted program beyond the scope of the regular classroom.

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.22(257) Use of the unexpended general fund balance. The unexpended general fund balance refers to the fund balance remaining in the general fund at the end of the fiscal year.

98.22(1) *Authorization required.* The school budget review committee may authorize a school district to spend a reasonable and specified amount from its unexpended general fund balance for either of the following purposes:

a. Furnishing, equipping, and contributing to the construction of a new building or structure for which the voters of the school district have approved a bond issue as provided by law or the tax levy provided in Iowa Code section 298.2.

b. The costs associated with the demolition of an unused school building, or the conversion of an unused school building for community use, in a school district involved in a dissolution or reorganization under Iowa Code chapter 275, if the costs are incurred within three years of the dissolution or reorganization.

98.22(2) *Appropriate uses of categorical funding.* Appropriate uses of the unexpended general fund balance include a transfer from the general fund to the capital projects fund in the amount approved by the school budget review committee. The moneys in the capital projects fund will be used exclusively for furnishing, equipping or constructing a new building or for demolishing an unused building.

98.22(3) *Inappropriate uses of categorical funding.* Inappropriate uses of the unexpended general fund balance include expenditures for salaries or recurring costs.

98.22(4) *Mandatory reversion of unused funding.* The portion of the unexpended general fund balance that is authorized to be transferred and expended will increase budget authority. However, any part of the amount not actually spent for the authorized purpose will revert to its former status as part of the unexpended general fund balance, and budget authority will be reduced by the amount not actually spent.
[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.23(257) Early intervention supplement.

98.23(1) *Appropriate uses of categorical funding.* Appropriate uses of the early intervention-supplement funding include any general fund-appropriate use described in rule 281—98.61(24,143,257,275,279,280,285,297,298,298A,301,473,670).

98.23(2) *Inappropriate uses of categorical funding.* Inappropriate uses of the early intervention-supplement funding include those that are inappropriate to the general fund as described in rule 281—98.61(24,143,257,275,279,280,285,297,298,298A,301,473,670).

98.23(3) *Deference.* Deference will be given to the decisions of school districts' boards of directors in accordance with Iowa Code section 257.10.

This rule is intended to implement Iowa Code section 257.9(8).
[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.24(257,284) Teacher salary supplement. A teacher may be employed in both an administrative and a nonadministrative position by a board of directors of a school district and shall be considered a part-time teacher for the portion of time that the teacher is employed in a nonadministrative position.

98.24(1) *Appropriate use of categorical funding.* Appropriate use of the teacher salary supplement funding is limited to additional salary for teachers, including amounts necessary for the district to comply with statutory teacher salary minimums; the amount required to pay the employers' share of the federal social security and Iowa public employees' retirement system, or a pension and annuity retirement system established under Iowa Code chapter 294; and payments to another school district or districts as negotiated in a whole grade sharing agreement pursuant to Iowa Code section 282.10(4). Teacher salary supplement funding is intended to be fully expended in the fiscal year for which it is allocated; however, in the event that a small amount is remaining and it would not be cost-effective to reallocate the remainder to teachers in the fiscal year, the school district or area education agency will carry forward the remainder and add it to the amount to be allocated to teachers in the subsequent fiscal year.

98.24(2) *Inappropriate uses of categorical funding.* Inappropriate uses of the teacher salary supplement funding include any expenditures other than the appropriate use described in subrule 98.24(1) hereof.

98.24(3) *Deference.* Deference will be given to the decisions of school districts' boards of directors in accordance with Iowa Code section 257.10.

98.24(4) *Rule of construction.* Flexibility provided in 2023 Iowa Acts, House File 68, will be applied to this categorical fund.
[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.25(257,284) Teacher leadership supplement. The purpose of the teacher leadership supplement is to improve instruction and elevate the quality of teaching and student learning.

98.25(1) *Appropriate uses of categorical funding.* Appropriate uses of teacher leadership supplement funding may be used to increase the payment for a teacher assigned to a leadership role pursuant to a framework or comparable system approved pursuant to Iowa Code section 284.15; to increase the percentages of teachers assigned to leadership roles; to increase the minimum teacher starting salary to $33,500; to cover the costs for the time mentor and lead teachers are not providing instruction to students in a classroom; for coverage of a classroom when an initial or career teacher is observing or co-teaching with a teacher assigned to a leadership role; for professional development time to learn best practices associated with the career pathways leadership process; for other costs associated with a framework or comparable system approved by the department of education under Iowa Code section 284.15 with the goals of improving instruction and elevating the quality of teaching and student learning, or as described in subrule 98.25(4). "Payment for a teacher" as used in this rule means additional salary for teachers and the amount

required to pay the employer's share of the federal social security and Iowa public employees' retirement system, or a pension and annuity retirement system established under Iowa Code chapter 294. Appropriate uses also include payments to another school district or districts as negotiated in a whole grade sharing agreement pursuant to Iowa Code section 282.10(4) and payment to another school district receiving an open enrolled student pursuant to Iowa Code section 282.18.

98.25(2) *Inappropriate uses of categorical funding.* Inappropriate uses of teacher leadership supplement funding include any expenditures other than the appropriate uses described in subrule 98.25(1).

98.25(3) *Flexibility account.* All or a portion of the amount remaining unexpended and unobligated at the end of a budget year beginning on or after July 1, 2020, may be transferred for deposit into the flexibility account established under Iowa Code section 298A.2, provided all statutory requirements of the teacher leadership program have been met.

98.25(4) *Additional provision.* Beginning July 1, 2023, all or a portion of the money carried forward from a prior year or received in the current year as teacher leadership supplement funds may be restricted for use limitations described in rule 281—98.24(257,284).

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.26(257,284) Educator quality professional development, also known as professional development supplement. The purpose of the funding is to implement the professional development provisions of the teacher career paths and leadership roles specified in Iowa Code section 284.15.

98.26(1) *Appropriate uses of categorical funding.* Appropriate uses of the educator quality professional development funding, and any amount designated for professional development purposes from the flexibility account as described in rule 281—98.27(257,298A), are limited to providing professional development to teachers, including additional salaries for time beyond the normal negotiated agreement; activities and pay to support a beginning teacher mentoring and induction program that meets the requirements of Iowa Code section 284.5; pay for substitute teachers, professional development materials, speakers, and professional development content; textbooks and curriculum materials used for classroom purposes if such textbooks and curriculum materials include professional development; administering assessments pursuant to Iowa Code sections 256.7(21)*"b"*(1) and 256.7(21)*"b"*(2) if such assessments include professional development; costs associated with implementing the individual professional development plans; and payments to a whole grade sharing partner school district as negotiated as part of the new or existing agreement pursuant to Iowa Code section 282.10(4). Reasonable efforts will be made to provide equal access to all teachers.

98.26(2) *Inappropriate uses of categorical funding.* Inappropriate uses of educator quality professional development funding include any expenditures that supplant professional development opportunities the school district otherwise makes available.

98.26(3) *Deference.* Deference will be given to the decisions of school districts' boards of directors in accordance with Iowa Code section 257.10.

98.26(4) *Transfer to flexibility account.* All or a portion of the moneys received as professional development supplement that remain unexpended and unobligated at the end of a fiscal year may be transferred for deposit to the flexibility account as described in rule 281—98.27(257,298A).

In order to transfer funds to the flexibility account, all requirements of Iowa Code chapter 284 must be met.

98.26(5) *Additional provision.* Beginning July 1, 2023, all or a portion of the moneys carried forward from a prior year or received in the current year as professional development supplement funds may be restricted for use limitations described in rule 281—98.24(257,284).

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.27(257,298A) Flexibility account. Beginning with the budget year beginning July 1, 2017, in accordance with Iowa Code section 298A.2, a flexibility account will be established in the general fund of each school corporation if the school corporation has authorized a transfer of all or a portion of its unexpended and unauthorized funds from any of the following sources: the statewide voluntary preschool program, the professional development supplement, the teacher leadership supplement, and the home school assistance program. Additionally, moneys from any other school district fund or general fund

account can be transferred to the flexibility account if the program, purpose, or requirements for expenditure of such moneys have been repealed or are no longer in effect.

98.27(1) *Requirements for transfer to the flexibility account.* In order to transfer funds to the flexibility account, the board of directors of the school corporation must determine that the statutory requirements for the source funds have been met as described in Iowa Code section 298A.2.

98.27(2) *Requirements for use of funds deposited to the flexibility account.* Expenditures from the flexibility account will be approved by a resolution of the board of directors of the school corporation that meets all requirements stipulated in Iowa Code section 298A.2.

98.27(3) *Appropriate uses of categorical funding.* Appropriate uses of funds transferred to the flexibility account are limited to the purposes described in Iowa Code section 298A.2.

98.27(4) *Inappropriate uses of categorical funding.* Inappropriate uses of funds within the flexibility account include any expenditures for purposes not specified in Iowa Code section 298A.2.

98.27(5) *Deference.* Deference will be given to the decisions of school districts' boards of directors in accordance with Iowa Code section 257.10.

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.28 to **98.39** Reserved.

DIVISION III
APPROPRIATE USE OF GRANTS IN AID

281—98.40(256,257,298A) Grants in aid. The state provides a large amount of categorical funding for various purposes to school districts and area education agencies in the form of grants in aid. Only those grants in aid allocated to a substantial number of the school districts and area education agencies through the department of education are included in these rules.

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.41 Reserved.

281—98.42(257,284) Beginning teacher mentoring and induction program. The purpose of the beginning teacher mentoring and induction program is to promote excellence in teaching, enhance student achievement, build a supportive environment within school districts and area education agencies, increase the retention of promising beginning teachers, and promote the personal and professional well-being of teachers. Effective July 1, 2017, this program is addressed within educator quality professional development as described in rule 281—98.26(257,284).

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.43(257,284A) Beginning administrator mentoring and induction program. The purpose of the beginning administrator mentoring and induction program is to promote excellence in school leadership, improve classroom instruction, enhance student achievement, build a supportive environment within school districts, increase the retention of promising school leaders, and promote the personal and professional well-being of administrators.

98.43(1) *Appropriate uses of categorical funding.* Appropriate uses of the beginning administrator mentoring and induction program funding include costs to provide each mentor with the statutory award for participation in the school district's beginning administrator mentoring and induction program; to implement the plan; and to pay any applicable costs of the employer's share of contributions to federal social security and the Iowa public employees' retirement system, or a pension and annuity retirement system established under Iowa Code chapter 294, for such amounts paid by the school district.

98.43(2) *Inappropriate uses of categorical funding.* Inappropriate uses of beginning administrator mentoring and induction program funding includes any costs that are not listed in subrule 98.43(1) as appropriate uses.

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.44(257,301) Nonpublic textbook services. Textbooks adopted and purchased by a school district will, to the extent funds are appropriated by the general assembly, be made available to pupils attending accredited nonpublic schools upon request of the pupil or the pupil's parent under comparable terms as made available to pupils attending public schools.

98.44(1) *Appropriate uses of categorical funding.* The appropriate use of the nonpublic textbook services funding is for the public school district to purchase nonsectarian textbooks for the use of pupils attending accredited nonpublic schools located within the boundaries of the public school district. "Textbooks" means the same as defined in Iowa Code section 301.1(3).

In the event that a participating accredited nonpublic school physically relocates to another school district, textbooks purchased for the nonpublic school with funds appropriated for that purpose in accordance with the Iowa Code will be transferred to the school district in which the accredited nonpublic school has relocated and may be made available to the accredited nonpublic school by the school district in which the nonpublic school has relocated. Funds distributed to a former school district for purposes of purchasing textbooks and that are unexpended will also be transferred from the former school district to the school district in which the accredited nonpublic school has relocated.

In the event that a participating accredited nonpublic school ceases operation, textbooks purchased for the nonpublic school with funds appropriated for that purpose in accordance with the Iowa Code will be returned to the public school district in which the nonpublic school was located. Funds provided for the purpose of purchasing textbooks for the nonpublic school that are unexpended will be reverted to the department of education.

98.44(2) *Inappropriate uses of categorical funding.* Inappropriate uses of nonpublic textbook services funding include reimbursements to accredited nonpublic schools for purchases made by the accredited nonpublic school, sectarian textbooks, computer hardware other than laptop computers or other portable personal computing devices that are used for nonreligious instructional use only, installation of hardware or other purchased services, teacher manuals or any other materials not available to the students attending the accredited nonpublic school, or any other expenditure that does not fit the definition of textbook. Funding provided for one nonpublic school located within the boundaries of the public school district will not be used for another accredited nonpublic school, even if the accredited nonpublic school is associated with the same parent organization.

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.45(279) Early literacy. School districts will provide intensive supplemental reading instruction to any student who has been identified as persistently at risk in reading, based upon an assessment or through teacher observations, and other activities required or authorized by Iowa Code section 279.68.

98.45(1) *Appropriate uses of categorical funding.* Appropriate uses of early literacy program funding include services and activities listed in Iowa Code section 279.68 and 281—Chapter 16.

98.45(2) *Inappropriate uses of categorical funding.* Inappropriate uses of early literacy program funding include indirect costs or use charges, operational or maintenance costs, capital expenditures other than equipment, student transportation other than as allowed in subrule 98.45(1), or administrative costs.

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.46 to **98.59** Reserved.

DIVISION IV
APPROPRIATE USE OF SPECIAL TAX LEVIES AND FUNDS

281—98.60(24,29C,76,143,256,257,274,275,276,279,280,282,283A,285,291,296,298,298A,300,301,423E,423F,565,670) Levies and funds. Tax levies or funds that are required by law to be expended only for the specific items listed in statute will be accounted for in a similar way to categorical funding. Each fund is mutually exclusive and completely independent of any other fund. No fund may be used as a clearing account for another fund, no fund may retire the debt of another fund unless specifically

authorized in statute, and transfers between funds will be accomplished only as authorized in statute or as approved by the school budget review committee. Public funds shall not be used for private purposes.
[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.61(24,143,257,275,279,280,285,297,298,298A,301,473,670) General fund. All moneys received by a school corporation from taxes and other sources will be accounted for in the general fund, except moneys required by law to be accounted for in another fund. If another fund specifically lists an expenditure to that other fund, it is assumed not to be appropriate to the general fund unless statute expressly states that it is an appropriate general fund expenditure. Each school district and each area education agency will have only one general fund.

98.61(1) *Sources of revenue in the general fund.* Sources of revenue in the general fund include all moneys not required by law to be accounted for in another fund and interest on the investment of those moneys. Proceeds from the sale or disposition of property other than real property, proceeds from the lease of real or other property, compensation or rent received for the use of school property, sales of school supplies, and sales or rentals of textbooks will be accounted for in the general fund. Proceeds for loans for equipment pursuant to Iowa Code section 279.48, federal loans for asbestos projects pursuant to Iowa Code section 279.52, or loans for energy conservation projects pursuant to Iowa Code section 473.20 may be accounted for in the general fund. Any revenue or receipt described in law as "miscellaneous income" or related to the modified supplemental amount is restricted to the general fund.

98.61(2) *Appropriate uses of the general fund.* Appropriate expenditures in the general fund include the following:

a. Providing day-to-day operations to the district or area education agency, such as salaries, employee benefits, purchased services, supplies, and expenditures for instructional equipment.

b. Purchasing school buses from unobligated funds on hand.

c. Establishing and maintaining dental clinics for children and offering courses of instruction on oral hygiene.

d. Employing public health nurses.

e. Funding insurance agreements if the district has not certified a district management levy.

f. Purchasing books and other supplies to be loaned, rented, or sold at cost to students.

g. Purchasing safety eye-protective devices and safety ear-protective devices.

h. Purchasing bonds and premiums for bonds for employees who have custody of funds belonging to the school district or area education agency or funds derived from extracurricular activities and other sources in the conduct of their duties.

i. Paying assessed costs related to changes in boundaries, reorganization, or dissolution.

j. Publishing the notices and estimates and the actual and necessary expenses of preparing the budget.

k. Engraving and printing school bonds, in the case of a school district.

l. Transferring interest and principal to the debt service fund when due for loans to purchase equipment authorized under Iowa Code section 279.48 and loans to be used for energy conservation measures under Iowa Code section 473.20, in the case of a school district, where the original proceeds were accounted for in the general fund.

m. Transferring interest and principal to the debt service fund when due for lease purchase agreements related to capital projects authorized under Iowa Code section 273.3(7), in the case of an area education agency.

n. Funding asbestos projects including the costs of inspection and reinspection, sampling, analysis, assessment, response actions, operations and maintenance, training, periodic surveillance, and developing of management plans and record-keeping requirements relating to the presence of asbestos in school buildings and its removal or encapsulation as authorized by the school budget review committee in the case of a school district.

o. Funding energy conservation projects entered into with the department of natural resources or its duly authorized agents or representatives pursuant to Iowa Code section 473.20, in the case of a school district.

p. Transferring to a capital projects fund as authorized by the school budget review committee, in the case of a school district.

q. Transferring to a capital projects fund as funds are due to be expended on a capital project authorized under Iowa Code section 273.3(7), in the case of an area education agency.

r. Start-up costs, other than land purchase, for the first year of a new student construction program.

s. Beginning with the budget year beginning July 1, 2016, transferring, by board resolution, to the student activity fund an amount necessary to purchase or, beginning with the budget year beginning July 1, 2018, recondition protective and safety equipment required for any extracurricular interscholastic athletic contest or competition that is sponsored or administered by an organization as defined in Iowa Code section 280.13, as allowed under Iowa Code section 298A.2 pursuant to Iowa Code section 298A.8(2).

t. Paying any other costs not required to be accounted for in another fund.

u. Paying for costs of activity programming required pursuant to rule 281—12.6(256) from funds other than those required to be accounted for in the student activity fund pursuant to Iowa Code section 298A.8.

98.61(3) *Inappropriate uses of the general fund.* Inappropriate expenditures in the general fund include the following:

a. Purchasing land or improvements.

b. Purchasing or constructing buildings or for capital improvements to real property except under special circumstances authorized by the school budget review committee, in the case of a school district, or except as authorized under Iowa Code section 273.3(7), in the case of an area education agency.

c. Modifying or remodeling school buildings or classrooms even if to make them accessible.

d. Paying interest and principal on long-term indebtedness for which the original proceeds were not accounted for in the general fund.

e. Funding lease-purchases.

f. Purchasing portable buildings.

g. Paying individuals or private organizations that are not audited and allowed and related to goods received or services rendered.

h. Paying other costs that are not operating or current expenditures for public education and are not expressly authorized in the Iowa Code.

98.61(4) *Special levies.* The general fund includes two special levy programs available to school districts, but not to area education agencies, that are restricted by the Iowa Code.

a. Instructional support program. The instructional support program is a district-initiated program to provide additional funding to the district's general fund.

(1) Appropriate uses of instructional support program funding. Moneys received by a district for the instructional support program may be used for any general fund purpose except those listed as inappropriate uses in subparagraph 98.61(4)*"b"*(2).

(2) Inappropriate uses of instructional support program funding. Moneys received by a district for the instructional support program will not be used as, or in a manner that has the effect of, supplanting funds authorized to be received under Iowa Code sections 257.41 (returning dropouts and dropout prevention programs), 257.46 (gifted and talented programs), 298.4 (management fund levy), and 298.2 (physical plant and equipment fund levy), or to cover any deficiencies in funding for special education instructional services resulting from the application of the special education weighting plan under Iowa Code section 256B.9.

b. Educational improvement program. The educational improvement program is a district-initiated program available to districts in special circumstances to provide additional funding to the district's general fund if the district already has the instructional support program in place.

(1) Appropriate uses of educational improvement program funding. Moneys received by a district for the educational improvement program may be used for any general fund purpose.

(2) Inappropriate uses of educational improvement program funding. Inappropriate uses of educational improvement program funding include any expenditure not appropriate to the general fund.

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.62(279,296,298,670) Management fund. The purpose of this fund is to pay the costs of unemployment benefits; early retirement benefits; insurance agreements; liability insurance to protect the school districts from tort liability, loss of property, and environmental hazards; and judgments or settlements relating to such liability. The authority to establish a management fund is available to school districts but not to area education agencies.

98.62(1) *Sources of revenue in the management fund.* Sources of revenue in the management fund include a property tax and interest on the investment of those moneys.

98.62(2) *Appropriate uses of the management fund.* Appropriate expenditures in the management fund include the following:

a. Costs of unemployment benefits as provided in Iowa Code section 96.31.

b. Costs of liability insurance to protect the school districts from tort liability, loss of property, and environmental hazards.

c. Costs of final court judgments, including judgments for attorney fees and court costs, entered against the district or a settlement made for a tort liability claim including interest accruing on the judgment or settlement to the expected date of payment.

d. Costs, including prepaid costs, of insurance agreements to protect the school districts from tort liability, loss of property, environmental hazards, or other risk associated with operations, but not including employee benefit plans.

e. Costs of early retirement benefits to employees under Iowa Code section 279.46 to pay a monetary bonus, continuation of health or medical insurance coverage, or other incentives for encouraging employees to retire before the normal retirement date for employees 55 years of age or older who notify the board of directors prior to April 1 of the fiscal year that they intend to retire not later than the start of the next following school calendar.

f. Costs of a physical inventory or cybersecurity vulnerability study conducted solely for the purpose of insurance.

g. Transfers to the debt service fund for payment of principal and interest when due on general obligation bonds issued under Iowa Code section 296.7 to protect the school district from tort liability, loss of property, environmental hazards, or other risk associated with operations.

h. Transfers to the appropriate fund for the portion of an insurance claim that was eligible under the insurance agreement but was denied because it was within the deductible limit.

i. Payment of costs of mediation and arbitration, including legal fees associated with such mediation or arbitration, but not including the results of the mediation or arbitration if those costs do not qualify under paragraph 98.62(2)*"c"* above.

98.62(3) *Inappropriate uses of the management fund.* Inappropriate expenditures in the management fund include the following:

a. Costs for employee health benefit plans.

b. Costs to conduct physical inventories of property for purposes other than insurance.

c. Costs to conduct actuarial studies.

d. Costs for supplies or capital outlay.

e. Transfer to a trust fund for other postemployment benefit (OPEB) cost or estimated cost calculated pursuant to Governmental Accounting Standards Board (GASB) Statement 45, as effective on February 7, 2024.

f. Any other costs not expressly authorized in the Iowa Code.

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24; **ARC 8240C**, IAB 10/2/24, effective 11/6/24]

281—98.63(298) Library levy fund. The board of directors of a school district in which there is no free public library may contract with any free public library for the free use of such library by the residents of the school district and pay the library the amount agreed upon for the use of the library as provided by law. During the existence of the contract, the board will certify annually a tax sufficient to pay the library the agreed-upon consideration.

98.63(1) *Sources of revenue in the library levy fund.* Sources of revenue in the library levy fund include a property tax not to exceed $0.20 per $1,000 of assessed value of the taxable property of the district and interest on the investment of those moneys.

98.63(2) *Appropriate uses of the library levy fund.* Appropriate expenditures in the library levy fund include expenditures necessary to provide a free public library.

98.63(3) *Inappropriate uses of the library levy fund.* Inappropriate expenditures in the library levy fund include the following:

a. Capital expenditures related to land or buildings.

b. Debt service.

c. Any other costs not necessary to provide a free public library.

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.64(279,283,297,298) Physical plant and equipment levy (PPEL) fund. The physical plant and equipment levy (PPEL) consists of the regular PPEL not to exceed $0.33 per $1,000 of assessed valuation and a voter-approved PPEL not to exceed $1.34 per $1,000 of assessed valuation, for a total of $1.67. The authority to establish a PPEL fund is available to school districts but not to area education agencies.

98.64(1) *Sources of revenue in the PPEL fund.* Sources of revenue in the PPEL fund include a property tax, income surtax, and interest on the investment of those moneys, and proceeds from loan agreements in anticipation of the collection of the voter-approved property. Proceeds from the condemnation, sale or disposition of real property are revenue to the PPEL fund. Proceeds from loans for equipment pursuant to Iowa Code section 279.48, federal loans for asbestos projects pursuant to Iowa Code section 279.52, or loans for energy conservation projects pursuant to Iowa Code section 473.20 may be accounted for in the PPEL fund. If the school board intends to enter into a rental, lease, or loan agreement, only a property tax will be levied for those purposes.

98.64(2) *Appropriate uses of the PPEL fund.* Appropriate expenditures in the PPEL fund include the following:

a. Purchase of grounds including the legal costs relating to the property acquisition, costs of surveys of the property, costs of relocation assistance under state and federal law, and other costs incidental in the property acquisition.

b. Improvement of grounds including grading, landscaping, paving, seeding, and planting of shrubs and trees; constructing sidewalks, roadways, retaining walls, sewers and storm drains, and installing hydrants; surfacing and soil treatment of athletic fields and tennis courts; exterior lighting, including athletic fields and tennis courts; furnishing and installing flagpoles, gateways, fences, and underground storage tanks that are not parts of building service systems; demolition work; and special assessments against the school district for public improvements.

c. Construction of schoolhouses or buildings.

d. Construction of roads to schoolhouses or buildings.

e. Purchasing, leasing, or lease-purchasing equipment or technology exceeding $500 in value per purchase, lease, or lease-purchase transaction.

(1) "Equipment" means both equipment and furnishings. The cost limitation for equipment does not apply to recreational equipment pursuant to paragraph 98.64(2)*"n"* or equipment that becomes an integral part of real property such as furnaces, boilers, water heaters, and central air-conditioning units that are included in repairs to a building pursuant to paragraph 98.64(2)*"h."*

(2) "Transaction" means a business deal or agreement between a school district and a provider of goods or services. Technology may be bundled for purposes of exceeding $500 per transaction.

f. Transferring to debt service for payments, when due, of debts contracted for the erection or construction of schoolhouses or buildings, not including interest on bonds.

g. Procuring or acquisition of library facilities.

h. Repairing, remodeling, reconstructing, improving, or expanding the schoolhouses or buildings and the additions to existing schoolhouses. "Repairing" means restoring an existing structure or thing to its original condition, as near as may be, after decay, waste, injury, or partial destruction, but does not include maintenance. "Reconstructing" means rebuilding or restoring as an entity a thing that was lost or destroyed. "Maintenance" means to cause to remain in a state of good repair or to keep equipment in effective working condition and ready for daily use. Maintenance includes cleaning, upkeep, inspecting for needed maintenance, preserving the existing state or condition, preventing a decline in the existing state or condition, and replacing parts, unless otherwise a repair.

i. Energy conservation projects.

j. Transferring interest and principal to the debt service fund when due for loans to purchase equipment authorized under Iowa Code section 279.48, for loans in anticipation of the collection of the voter-approved property under Iowa Code section 297.36, and loans to be used for energy conservation measures under Iowa Code section 473.20, in the case of a school district, when the original proceeds were accounted for in the PPEL fund.

k. The rental of facilities under Iowa Code chapter 28E.

l. Purchase of transportation equipment for transporting students and for repairing such transportation equipment when the cost of the repair exceeds $2,500. "Repairing," for purposes of this paragraph, means restoring an existing item of transportation equipment to its original condition, as near as may be, after gradual obsolescence of physical and functional use due to wear and tear, corrosion and decay, or partial destruction, and includes maintenance that meets the definition of equipment and repair and the cost of which exceeds $2,500. Effective October 2, 2019, "repairing" also means retrofitting transportation equipment when such retrofitting aligns to the school bus construction standards in 281—Chapter 44.

m. Purchase of buildings or lease-purchase option agreements for school buildings.

n. Purchase of equipment for recreational purposes.

o. Payments to a municipality or other entity pursuant to Iowa Code section 403.19(2).

p. Asbestos projects including costs of inspection and reinspection, sampling, analysis, assessment, response actions, operations and maintenance, training, periodic surveillance, development of management plans and record-keeping requirements relating to the presence of asbestos in school buildings of the district and its removal or encapsulation.

q. Purchase, erect, or acquire a building for use as a school meal facility, and equip a building for that use.

r. Purchase of land as part of start-up costs for a new student construction program or if the sale proceeds of the previous student construction were insufficient to purchase land, but not for materials and supplies for a facility intended to be sold.

s. Construction materials and supplies for a student-constructed building or shed intended to be retained by and used by the district.

t. Demolition of a district-owned building.

u. Improving buildings or sites for the purpose of accessing digital telecommunications over multiple channels, often referred to as broadband.

98.64(3) *Inappropriate uses of the PPEL fund.* Inappropriate expenditures in the PPEL fund include the following:

a. Student construction materials and supplies for a facility intended to be sold.

b. Salaries and benefits.

c. Travel.

d. Supplies.

e. Facility, vehicle, or equipment maintenance.

f. Printing costs or media services.

g. Any other purpose not expressly authorized in the Iowa Code.

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.65(276,300) Public educational and recreational levy (PERL) fund. Boards of directors of school districts may establish and maintain for children and adults public recreation places and playgrounds, and necessary accommodations for the recreation places and playgrounds, in the public school buildings and on the grounds of the district. Financial support for the community education program will be provided from funds raised pursuant to Iowa Code chapter 300 and from any private funds and any federal funds made available for the purpose of implementing community education. Districts with a PERL fund may maintain their PERL fund. Districts no longer have the authority to authorize a new PERL fund.

98.65(1) *Sources of revenue in the PERL fund.* Sources of revenue in the PERL fund include a property tax levy not to exceed $0.135 per $1,000 of assessed valuation, any appropriation by the agencies

involved in a cooperative effort under Iowa Code chapter 28E, federal grants, donations, and interest on the investment of those moneys.

98.65(2) *Appropriate uses of the PERL fund.* Appropriate expenditures in the PERL fund include the following:

a. Establishing and maintaining recreation places and playgrounds, including necessary accommodations, that are open to the public.

b. Providing public educational and recreational activities.

c. Establishing and supervising a community education program.

d. Providing a community education director if a community education program is established.

98.65(3) *Inappropriate uses of the PERL fund.* Inappropriate expenditures in the PERL fund include the following:

a. Programs that are not available to those living in the district boundaries.

b. Costs not necessary to provide programs for community education and for recreation places, playgrounds, and programs open to the public.

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.66(257,279,298A,565) District support trust fund. The district support trust fund is used to account for moneys received in trust where those moneys, both principal and interest, are to benefit the school district. The school district or area education agency will not transfer its own resources to a district support trust fund. If the school district or area education agency has more than one district support trust, it will use locally assigned project codes pursuant to Uniform Financial Accounting for Iowa School Districts and Area Education Agencies, as effective on February 7, 2024, to identify the different trusts in the same fund. The district support trust fund is not an irrevocable trust. The board of directors of the school district must take action to accept or establish each gift, devise, or bequest in the district support trust fund. It is the board's responsibility to ensure that the terms of the gift, devise, or bequest are compatible with the mission of and legal restrictions on the school district. Once accepted, gifts, devises, and bequests become public funding under the stewardship of the school district. If the purpose for which the moneys are to be spent is not in keeping with the overall objectives of the school district or legal authority of the school district, the board shall not assume responsibility as the trustee.

98.66(1) *Sources of revenue in the district support trust fund.* Sources of revenue in the district support trust fund include donations of cash, investment instruments, property, and interest on investments held. In a district support trust fund, both principal and interest are available to benefit the school district's programs.

98.66(2) *Appropriate uses of the district support trust fund.* Appropriate expenditures in the district support trust fund include those that are consistent with the terms of the agreement, are legal expenditures to a school district, and are for the benefit of the school district.

98.66(3) *Inappropriate uses of the district support trust fund.* Inappropriate expenditures in the district support trust fund include transfers to nonprofit or private organizations or any expenditure that is not consistent with the terms of the agreement, legal to a school district, or for the benefit of the school district.

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24; **ARC 8240C**, IAB 10/2/24, effective 11/6/24]

281—98.67(257,279,298A,565) Permanent funds. Permanent funds are used to account for resources received that are legally restricted to the extent that only earnings, and not principal, may be used for purposes that support the school district's programs. The school district or area education agency will not transfer its own resources to a permanent fund. The board of directors of the school district must take action to accept or establish each gift, devise, or bequest in permanent funds. It is the board's responsibility to ensure that the terms of the gift, devise, or bequest are compatible with the mission of and legal restrictions on the school district. Once accepted, gifts, devises, and bequests become public funding under the stewardship of the school district. If the purpose for which the moneys are to be spent is not in keeping with the overall objectives of the school district or legal authority of the school district, the board shall not assume responsibility of the moneys.

98.67(1) *Sources of revenue in the permanent funds.* Sources of revenue in the permanent funds include donations of cash, investment instruments, property, and interest on investments held. In permanent funds, only interest is available to benefit the school district's programs.

98.67(2) *Appropriate uses of the permanent funds.* Appropriate expenditures in the permanent funds include those that are consistent with the terms of the agreement, are legal expenditures to a school district, and are for the benefit of the school district.

98.67(3) *Inappropriate uses of the permanent funds.* Inappropriate expenditures in the permanent funds include transfers to nonprofit or private organizations, expenditure from principal, or any expenditure that is not consistent with the terms of the agreement, or legal to a school district, or for the benefit of the school district, or any expenditure from the principal portion.

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.68(76,274,296,298,298A) Debt service fund. A debt service fund is used to account for the accumulation of resources for, and the payment of, general long-term debt principal and interest. A school district or area education agency will have only one debt service fund.

98.68(1) *Sources of revenue in the debt service fund.* Sources of revenue in the debt service fund include the levy on taxable property authorized by the voters pursuant to Iowa Code section 298.21 and necessary to service bonds that mature in the current year, transfers from other funds for payments of interest and principal when due that are required under a loan, lease-purchase agreement, or other evidence of indebtedness authorized by the Iowa Code, and earnings from temporary investment of moneys in the debt service fund.

98.68(2) *Appropriate uses of the debt service fund.* Appropriate expenditures in the debt service fund include the following:

a. Payment of principal and interest of the lawful bonded indebtedness maturing in the current year as it becomes due. In determining how much is necessary to service bonds that mature in the current year, the board of directors will consider the amount of earnings from temporary investments of debt service funds and beginning cash balances.

b. Payment of costs of registration of public bonds or obligations.

c. Payment of additional amounts as the board deems necessary to apply on the principal.

d. Payment of principal and interest when due that are required under a loan agreement, lease-purchase agreement, or other evidence of indebtedness authorized by the Iowa Code other than bonded indebtedness paid from resources transferred for that purpose to the debt service fund from other funds.

e. Payment of transfers to the PPEL fund by board resolution when funds remain in the debt service fund after payment of the entire balance of outstanding debt in accordance with the original purpose of the bonded indebtedness and after return of any excess amount transferred into the debt service fund from another fund or other indebtedness. The voters in the district may authorize the district to transfer the remaining balance to the general fund instead of the PPEL fund pursuant to Iowa Code section 278.1(1) *"e."*

98.68(3) *Inappropriate uses of the debt service fund.* Inappropriate expenditures in the debt service fund include payment of debt issued by one fund from resources transferred from a different fund unless expressly authorized by the Iowa Code and any other expenditure not listed in subrule 98.68(2).

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.69(76,273,298,298A,423E,423F) Capital projects fund. Capital projects funds are used to account for financial resources to acquire or construct major capital facilities and to account for revenues from the state sales and services tax for school infrastructure. Boards of directors of school districts are authorized to establish more than one capital projects fund as necessary.

98.69(1) *Sources of revenue in the capital projects fund.* Sources of revenue in a capital projects fund include sale of general obligation bonds, grants and donations for capital facility projects, and transfers from other funds that authorized indebtedness for capital facility projects or that initiated a capital facility project or that received grants or other funding for capital projects, and tax receipts or revenue bonds issued for the state sales and services tax for school infrastructure. In the case of an area education agency, transfers from the general fund to a capital projects fund are limited to payments from proceeds accounted

for in the general fund when payments are due on a capital project under a lease-purchase agreement pursuant to Iowa Code section 273.3(7).

98.69(2) *Appropriate uses of the capital projects fund.*

a. Appropriate expenditures in a capital projects fund, excluding state/local option sales and services tax for school infrastructure fund, include the following:

(1) Purchasing, constructing, furnishing, equipping, reconstructing, repairing, improving, or remodeling a schoolhouse or schoolhouses and additions thereto, gymnasium, stadium, field house, school bus garage, or teachers' or superintendents' home(s). Prior to approving the use of revenues for an athletic facility infrastructure project within the scope of the school district's approved revenue purpose statement, the board of directors shall adopt a resolution setting forth the proposal for the athletic facility infrastructure project and hold an additional public hearing on the issue of construction of the athletic facility as stipulated in Iowa Code section 423F.3(7).

(2) Procuring a site, or purchasing land to add to a site already owned, or procuring and improving a site for an athletic field, or improving a site already owned for an athletic field.

(3) Transferring to the PPEL fund or debt service fund by board resolution any balance remaining in a capital projects fund after the capital project is completed and after return of any excess amount transferred into the capital projects fund from another fund. The voters in the district may authorize the district to transfer the remaining balance to the general fund instead of the PPEL fund or debt service fund pursuant to Iowa Code section 278.1(1)*"e."*

(4) Improving buildings or sites for the purpose of accessing digital telecommunications over multiple channels, often referred to as broadband.

(5) School safety and security infrastructure listed in Iowa Code section 423F.3(6).

b. Appropriate expenditures in the state/local option sales and services tax for the school infrastructure capital projects fund shall be expended in accordance with a valid revenue purpose statement if a valid revenue purpose statement exists; otherwise, appropriate expenditures include the following in order:

(1) Payment of principal and interest on revenue bonds issued pursuant to Iowa Code sections 423E.5 and 423F.4 for which the revenue has been pledged.

(2) Reduction of debt service levies.

(3) Reduction of regular and voter-approved PPEL levies.

(4) Reduction of the PERL levy.

(5) Reduction of any schoolhouse tax levy under Iowa Code section 278.1(1)*"e."*

(6) Any authorized infrastructure purpose of the district pursuant to Iowa Code section 423F.3(6), which includes the following:

1. Payment or retirement of outstanding general obligation bonded indebtedness issued for school infrastructure purposes.
2. Payment or retirement of outstanding revenue bonds issued for school infrastructure purposes.
3. Purchasing, constructing, furnishing, equipping, reconstructing, repairing, improving, remodeling, or demolition of a schoolhouse or schoolhouses and additions thereto, gymnasium, stadium, field house, or school bus garage.
4. Procuring a site, or purchasing land to add to a site already owned, or procuring and improving a site for an athletic field, or improving a site already owned for an athletic field.
5. Expenditures listed in Iowa Code section 298.3.
6. Expenditures listed in Iowa Code section 300.2.

(7) Improving buildings or sites for the purpose of accessing digital telecommunications over multiple channels, often referred to as broadband.

(8) School safety and security infrastructure listed in Iowa Code section 423F.3(6).

98.69(3) *Inappropriate uses of the capital projects fund.* Inappropriate expenditures in a capital projects fund include any expenditure not expressly authorized in the Iowa Code. Additionally, expenditures from the state sales and services tax for new construction or for payments for bonds issued for new construction in any district that has a certified enrollment of fewer than 250 pupils in the district or a certified enrollment of fewer than 100 pupils in the high school without a certificate of need issued, as

described in Iowa Code chapter 423F, by the department of education. This restriction does not apply to payment of outstanding general obligation bonded indebtedness issued pursuant to Iowa Code section 296.1 before April 1, 2003. This restriction also does not apply to costs to repair school buildings; purchase of equipment, technology or transportation equipment authorized under Iowa Code section 298.3; or for construction necessary to comply with the federal Americans With Disabilities Act.
[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.70(279,280,298A) Student activity fund. The student activity fund must be established in any school district receiving moneys from student-related activities, such as admissions, activity fees, student dues, student fund-raising events, or other student-related cocurricular or extracurricular activities. Moneys collected through school activities are public funds that are the property of the school district and are under the financial control of the school board. Upon dissolution of an activity, such as a graduating class or student club, the surplus must be used to support other student activities in the student activity fund. Prudent and proper accounting of all receipts and expenditures in these accounts is the responsibility of the board secretary pursuant to Iowa Code section 291.6. School districts may maintain subsidiary records for student activities if those records are reconciled to the official records on a monthly basis; however, all official accounting records of the student activity fund shall be maintained within the school district's chart of account pursuant to Uniform Financial Accounting for Iowa School Districts and Area Education Agencies, as effective on February 7, 2024.

98.70(1) *Sources of revenue in the student activity fund.* Sources of revenue in the student activity fund include income derived from student activities such as gate receipts, ticket sales, admissions, student club dues, donations, fund-raising events, any other receipts derived from student body cocurricular or extracurricular activities, contests, and exhibitions as well as interest on the investment of those moneys, and amounts transferred from the general fund under Iowa Code section 298A.2 as described in paragraph 98.61(2)*"s."*

98.70(2) *Appropriate uses of the student activity fund.* Appropriate expenditures in the student activity fund include ordinary and necessary expenses of operating school district-sponsored and district-supervised student cocurricular and extracurricular activities, including purchasing services from another school district to provide for the eligibility of enrolled students in interscholastic activities provided by the other school district when that school district does not provide an interscholastic activity for its students.

98.70(3) *Inappropriate uses of the student activity fund.* Inappropriate expenditures in the student activity fund include the following:

a. Maintenance of funds raised by outside organizations.

b. The cost of bonds for employees having custody of funds derived from cocurricular and extracurricular activities in the conduct of their duties. These are costs to the general fund.

c. Expenditures that lack public purpose.

d. Payments to any private organization unless a fundraiser was held expressly for that purpose and the purpose of the fundraiser was specifically identified.

e. Transfers to any other fund of any surplus within the fund.

f. Payments more properly accounted for in another fund such as public tax funds, trust funds, state and federal grants, textbook/library book fines, fees, rents, purchases or sales, sales of school supplies, or curricular activities.

g. Use of the student activity fund as a clearing account for any other fund.

h. Cash payments to student members of activity groups.

i. The cost of optional equipment or customizing uniforms.

j. The cost of uniforms when the following two tests are not met:

(1) The activity is a part of the school's educational program, and

(2) The wearing of the uniform or equipment is necessary in order to participate.

k. Hospital or medical claims for student injuries or procurement of student medical insurance.

l. Optional costs related to activities that are not necessary to the cocurricular and extracurricular program such as promotional costs.

m. Membership fees in student activity-related associations if the fees are optional, i.e., nonmember schools may participate in sponsored events.

n. Costs to participate in or to allow students to participate in any cocurricular and extracurricular interscholastic athletic contest or competition not sponsored or administered by either the Iowa High School Athletic Association or the Iowa Girls High School Athletic Union.

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24; **ARC 8240C**, IAB 10/2/24, effective 11/6/24]

281—98.71(298A) Entrepreneurial education fund. The entrepreneurial education fund is used to enhance student learning by encouraging students to develop and practice entrepreneurial skills at an early age and to foster a business-ready workforce in this state. A school corporation may establish an entrepreneurial education fund at the request of a student organization or club and upon approval by the school board.

98.71(1) *Sources of revenue in the entrepreneurial education fund.* Sources of revenue in the entrepreneurial education fund consist only of moneys earned through entrepreneurial activities or returns on investments made for entrepreneurial purposes by the student organization or club, private donations and private contributions, and any interest earned on such moneys that are deposited in the fund. At the request of a student organization or club and upon approval by the school board, a school corporation will transfer moneys in a student activity fund established under Iowa Code section 298A.8, for deposit by the student organization or club in an entrepreneurial education fund. However, a school corporation will not transfer such moneys unless the moneys are attributable through appropriate documentation to the specific student organization or club and unless the student organization or club shows through appropriate documentation that the student organization or club earned the moneys through entrepreneurial activities of starting, maintaining, or expanding a business venture, including a seasonal business venture, or rendering other labor or services in return for compensation. Entrepreneurial activities do not include charitable contributions or other donations or gifts received by the student organization or club for which no labor or services are rendered.

98.71(2) *Appropriate uses of the entrepreneurial education fund.* Appropriate uses of the entrepreneurial education fund are limited to expending only for investments made, or activities undertaken, for board-approved entrepreneurial purposes that include investing in a start-up company, early-stage company, or existing company developing a new product or new technology if the investment is in keeping with the education program of the school corporation; if the student organization or club or its members will, as a stated condition of the investment, take an active role in the company which active role directly relates to and furthers the educational purposes for which the student organization or club is established; and if a reasonable return upon the investment is expected.

98.71(3) *Inappropriate uses of the entrepreneurial education fund.* A student organization or club will not invest moneys from an entrepreneurial education fund for an entrepreneurial purpose in which a member of the student organization or club, an advisor or supervisor of the student organization or club, or an immediate family member of such persons, has a financial interest.

98.71(4) *Fund closure.* An entrepreneurial education fund may be closed at the request of the student organization or club for which the school corporation established the fund. All moneys in the fund on the date of closure and any subsequent return on an investment made with moneys from the fund will be deposited in the school district's student activity fund.

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.72(256B,257,298A) Special education instruction fund. The special education instruction fund is used to account for the revenues and expenditures of the special education instructional program that an area education agency provides for its member districts under Iowa Code section 273.9(2). This does not include special education support services as provided by Iowa Code section 274.9(3) that are accounted for in the general fund.

98.72(1) *Sources of revenue in the special education instruction fund.* Sources of revenue in the special education instruction fund include sales of instructional services to districts with students in the special education instruction program and interest on the investment of those moneys.

98.72(2) *Appropriate uses of the special education instruction fund.* Appropriate expenditures in the special education instruction fund include those authorized to a school district pursuant to Iowa Code chapter 256B and 281—Chapter 41 and included in the written agreement with the school districts.

98.72(3) *Inappropriate uses of the special education instruction fund.* Inappropriate expenditures in the special education instruction fund include expenditures not allowed to school districts pursuant to Iowa Code chapter 256B and 281—Chapter 41, expenditures for special education support services provided pursuant to Iowa Code section 273.9(3), or expenditures for costs not included in the written agreement with the school districts.

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.73(282,298A) Juvenile home program instruction fund. The juvenile home program instruction fund is used to account for the revenues and expenditures for the educational program for students residing in juvenile homes as provided by Iowa Code section 282.30. The juvenile home program supplements, but does not supplant, expenditures required of an area education agency under Iowa Code chapter 273. Revenues and expenditures related to federal or state grants serving students in the juvenile homes that supplement, rather than supplant, the juvenile home program are included in the general fund, rather than the juvenile home fund. Educational program costs for students served pursuant to individualized education programs (IEPs) will not be included in the claim described in Iowa Code section 282.31 in lieu of billing those costs to the resident district. Educational program costs for out-of-state resident students will not be included in the claim described in Iowa Code section 282.31 in lieu of billing those costs to the resident state agency. The area education agency (AEA) is responsible for stewardship of public funds and ensuring that all costs are ordinary and necessary costs of instruction and that classrooms are not overstaffed for the number of students. The AEA will compare its costs, services, and staffing to the costs, services, and staffing of a similar classroom in the school district in which the juvenile home is located to ensure that they are comparable.

98.73(1) *Sources of revenue in the juvenile home program instruction fund.* Sources of revenue in the juvenile home program instruction fund include an advance paid pursuant to Iowa Code section 282.31, tuition billed to Iowa resident districts or to out-of-state agencies, grants in aid and interest on the investment of those moneys.

98.73(2) *Appropriate uses of the juvenile home program instruction fund.* Appropriate expenditures in the juvenile home program instruction fund are ordinary and necessary expenditures approved by the department to provide an instructional program to students residing in juvenile homes and include:

a. Salary and benefits for classroom teachers and aides providing instruction to students placed in a juvenile home.

b. Professional development that is specific to strategies to meet the needs of students in placement for all classroom teachers and aides working with students placed in a juvenile home.

c. Research-based resources, materials, software, supplies, and equipment, and purchased services that are customarily considered instructional and that meet all of the following criteria:

(1) Meet the needs of school-age students placed in juvenile homes,

(2) Will remain with the AEA juvenile home program, and

(3) Do not duplicate support services responsibilities of the AEA or the responsibilities of the juvenile home in its agreement with the placement agencies.

d. Summer school when necessary for a valid, established educational reason such as being included in the student's IEP or pursuant to Iowa Code section 279.68.

e. Student support and instructional support expenditures to the extent that they are exclusively devoted to the juvenile home instructional program and are not administrative or clerical. This would include guidance services, curriculum development and instructional technology.

f. Administrative support to the extent the administrator is exclusively assigned to the juvenile home locations and is exclusively providing school-level administrative services directly for the student placed in the juvenile home or the classroom teachers. If the administrator is assigned part-time to the juvenile home locations, then only the portion of time that is exclusively and directly related to the juvenile home instructional programs may be charged to the program. The total administrative cost will not exceed 10 percent of the total of all allowable costs for the juvenile home program.

g. When the students are not required by the placement agency to remain at the juvenile home facility and the juvenile home has no responsibility for treatment in its agreement with the placement agency beyond custodial care, then rent may be allowed. Rent must be approved by the department. The space

must be classroom space occupied exclusively by the AEA's instructional program and not include restrooms or any other common spaces. Only if rent is approved may any costs for operation or maintenance of that classroom space be allowed. The total administrative cost in paragraph 98.73(2)*"f"* and the total of rent and associated operation and maintenance will not exceed 20 percent of the total of all allowable costs for the juvenile home program.

h. Transportation provided by the AEA exclusively to transport students placed at the juvenile home to the students' resident school districts located in Iowa or to the school district in which the juvenile home is located.

98.73(3) *Inappropriate uses of the juvenile home program instruction fund.* Inappropriate expenditures in the juvenile home program instruction fund include the following:

a. Costs estimated or allocated that are expenditures of the agency, such as insuring agency property.

b. Costs that are not ordinary and necessary to provide instruction.

c. Costs related to the juvenile home facility, its responsibilities under the Iowa Code or its agreements with the placement agencies.

d. Costs that were or could have been filed with Medicaid for reimbursement.

e. Debt service.

f. Capital outlay related to facilities. This includes any costs for facility acquisition or construction services, including remodeling and facility repair.

g. Support services that are AEA responsibilities pursuant to the Iowa Code.

h. Rental when adequate space is available at the AEA or at the district of location or when the students need treatment provided by the juvenile home or need to remain at the juvenile home pursuant to the agreement between the juvenile home and the placement agency.

i. Costs of an audit.

j. Indirect costs.

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.74(283A,298A) School nutrition fund. All school districts will operate or provide for the operation of lunch programs at all attendance centers in the school district. A school district may operate or provide for the operation of school breakfast programs at all attendance centers in the district, or provide access to a school breakfast program at an alternative site to students who wish to participate in a school breakfast program.

98.74(1) *Sources of revenue in the school nutrition fund.* Sources of revenue in the school nutrition fund include food sales to pupils and adults, ancillary food services, state and federal grants in aid for the operation of a nutrition program, gifts, sales of services to other funds, donated government commodities, and interest on investment of school nutrition fund moneys. Also included are fees charged for providing food services to staff meetings and authorized organizations for meetings on the premises in accordance with the rules of the board. The charges for such services must be no less than the actual costs involved in providing the services including the value of donated government commodities.

98.74(2) *Appropriate uses of the school nutrition fund.* Appropriate expenditures in the school nutrition fund include the following:

a. Expenditures necessary to operate a school breakfast or lunch program such as salaries and benefits for employees necessary to operate the food service program, food, purchased services, supplies, and school nutrition equipment not included in Iowa Code section 283A.9.

b. Costs to provide food service for school staff and ancillary food services to staff meetings and authorized organizations for meetings on the premises in accordance with the rules of the board of directors of the school district if those costs are reimbursed by another fund, organization, or individual.

98.74(3) *Inappropriate uses of the school nutrition fund.* Inappropriate expenditures in the school nutrition fund include the following:

a. Costs to provide food service for school staff and ancillary food services to staff meetings and authorized organizations for meetings on the premises at less than actual costs involved in providing the services including the value of donated government commodities.

b. Operating transfers to any other fund other than to claim indirect costs.

c. Costs to purchase, construct, reconstruct, repair, remodel, or otherwise acquire or equip a building for use as a school meal facility. These costs are permitted from the PPEL fund.

d. Costs estimated or allocated that are expenditures of the district.

98.74(4) *Unpaid student meals account.* Beginning with the budget year beginning July 1, 2018, in accordance with Iowa Code section 283A.11, a school district may establish an unpaid student meals account in the school nutrition fund and may deposit in the account moneys received from private sources for purposes of paying student meal debt accrued by individual students as well as amounts designated for the account from the school district's flexibility account as described in rule 281—98.27(257,298A). Moneys deposited in the unpaid student meals account will be used by the school district only to pay individual student meal debt. The school district will set fair and equitable procedures for such expenditures.

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.75(279,298A) Child care and before- and after-school programs fund. The board of directors of a school district may operate or contract for the operation of a program to provide child care to children not enrolled in school or to students enrolled in kindergarten through grade 6 before and after school, or to both.

98.75(1) *Sources of revenue in the child care fund.* Sources of revenue in the child care fund include a fee established by the board for the cost of participation in the program. The fee will be established pursuant to a sliding fee schedule based upon staffing costs and other expenses and a family's ability to pay. If a fee is established, the parent or guardian of a child participating in a program is be responsible for payment of any agreed-upon fee. The board may require the parent or guardian to furnish transportation of the child. If the board does not establish a fee, it must finance the program through grants or donations. The board may utilize or make application for program subsidies from any existing child care funding streams.

98.75(2) *Appropriate uses of the child care fund.* Appropriate expenditures in the child care fund include salaries and benefits for employees necessary to operate the child care program or before- and after-school program, purchased services, supplies, and equipment.

Effective with the budget year beginning July 1, 2018, if the balance in the before- and after-school program exceeds the amount necessary to operate the before- and after-school program, the excess amount may, following a public hearing, be transferred to the general fund by a resolution of the board of directors of the school corporation that meets all provisions of Iowa Code section 298A.12. A transfer under this subrule does not increase a school district's authorized expenditures as defined in Iowa Code section 257.7.

98.75(3) *Inappropriate uses of the child care fund.* Inappropriate expenditures in the child care fund include debt service, capital outlay related to facilities, or any other expenditure not ordinary and necessary to operate the child care program or before- and after-school program.

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.76(298A) Regular education preschool fund. The board of directors of a school district may establish a preschool for students who are not of school age.

98.76(1) *Sources of revenue in the regular education preschool fund.* Sources of revenue in the regular education preschool fund include a fee established by the board for the cost of participation in the program. If a fee is established, the parent or guardian of a child participating in a program is responsible for payment of any agreed-upon fee. If the board does not establish a fee, it must finance the program through grants or donations. The statewide voluntary four-year-old preschool program established under Iowa Code chapter 256C will not be accounted for in the regular education preschool fund.

98.76(2) *Appropriate uses of the regular education preschool fund.* Appropriate expenditures in the regular education preschool fund include salaries and benefits for employees necessary to operate the regular education preschool program, purchased services, instructional supplies, and instructional equipment.

98.76(3) *Inappropriate uses of the regular education preschool fund.* Inappropriate expenditures in the regular education preschool fund include debt service, capital outlay related to facilities, or any other expenditure not ordinary and necessary to operate the regular education preschool program or before- and after-school program.

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.77(298A) Student construction fund. If the board of directors of a school district establishes a construction program whereby students learn a construction trade and the facility constructed is sold to cover costs of construction, the revenues and expenses will be accounted for in the student construction fund.
[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.78(298A) Other enterprise funds. Enterprise funds are used to account for any activity for which a fee is charged to external users for goods and services. Enterprise funds are required to be used to account for any activity whose principal revenue sources are fees and charges to recover the costs of providing goods or services where those fees and charges are permitted by the Iowa Code. Funds discussed in rules 281—98.74(283A,298A) through 281—98.77(298A) are enterprise funds. In addition, enterprise funds include those activities related to community service enterprises or enterprises that support the school curricular program. Community service enterprises are activities provided by the district for a fee to the general community or segment of the community that are not in the PERL or library funds such as public libraries, community pool, community wellness center, and community or adult education. Enterprises that support the school program include activities such as a student farm, greenhouse, cooperative purchasing, school stores, or major resale activities.
[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.79 to **98.81** Reserved.

281—98.82(298A) Internal service funds. Internal service funds are used to account for the financing of services provided within the district to provide goods or services to other funds, component units, or other governments on a cost-reimbursement basis. The use of an internal service fund is appropriate only for activities in which the agency, school district or area education agency is the predominant participant in the activity. If the district or area education agency is not the primary user of the goods or services provided by the internal service fund, then the activity should be accounted for in an enterprise fund rather than an internal service fund. Internal service funds include self-insurance funds, flex-benefit (cafeteria) plan funds, print shops, health reimbursement arrangements (HRAs), central warehousing and purchasing, and central data processing.
[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.83 to **98.91** Reserved.

281—98.92(257,279,298A,565) Private purpose trust funds. Private purpose trust funds are fiduciary funds established to account for gifts the school district receives to be used for a particular purpose or to account for moneys and property received and administered by the school district as trustee. These trust funds are not irrevocable trusts and are used to account for assets held by a school district in a trustee capacity to benefit individuals, private organizations, or other governments, and therefore cannot be used to support the school district's own programs. These trust funds include both those that allow use of only the interest on the investments and those that allow use of both principal and interest. Scholarship trust funds are an example of private purpose trust funds. If a school district has more than one scholarship trust, the school district will use project codes in accordance with Uniform Financial Accounting for Iowa School Districts and Area Education Agencies, as effective on February 7, 2024, to separately account for the trusts. The district or area education agency will not transfer its own resources to a private purpose trust fund.

98.92(1) *Sources of revenue in private purpose trust funds.* Sources of revenue in the private purpose trust fund include donations of cash, investment instruments, property, and interest on investments held.

98.92(2) *Appropriate uses of private purpose trust funds.* Appropriate expenditures in the private purpose trust fund include those that are consistent with the terms of the agreement or are for the benefit of a private purpose other than the school district. None of the expenditures will be for the benefit of the school district's programs.

98.92(3) *Inappropriate uses of private purpose trust funds.* Inappropriate expenditures in the private purpose trust fund include any expenditure that is not consistent with the terms of the agreement, not legal to a school district, or that benefits the school district's programs.
[**ARC 7802C**, IAB 4/17/24, effective 5/22/24; **ARC 8240C**, IAB 10/2/24, effective 11/6/24]

281—98.93(298A) Other trust funds. Trust funds are fiduciary funds established to account for gifts the school district receives to be used for a particular purpose or to account for moneys and property received and administered by the school district as trustee. These trust funds are used to account for assets held by a school district in a trustee capacity to benefit individuals, private organizations, or other governments, and cannot be used to support the school district's own programs. These trust funds include both those that allow use of only the interest on the investments and those that allow use of both principal and interest. The school district or area education agency shall not transfer its own resources to a trust fund. Other trust funds may include but not be limited to pension trust funds and investment trust funds. Pension trust funds are used to account for resources that are required to be held in trust for members and beneficiaries of defined benefit pension plans, defined contribution plans, other postemployment benefit plans, or other benefit plans. Typically, these pension trust funds are used to account for local pension and other employee benefit funds that are provided by a school district in lieu of or in addition to any state retirement system. Investment trust funds are used to account for the external portion (i.e., the portion that does not belong to the school district) of investment pools operated by the school district.
[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.94 to **98.100** Reserved.

281—98.101(298A) Custodial funds. Custodial funds are used to account for funds that are held in a custodial capacity by the school district for individuals, private organizations, or other governments. Custodial funds may include moneys collected for another government, a grant consortium when the school district serves as fiscal agent for the other school districts but has no managerial responsibilities, or funds for a teacher or a parent-teacher organization that has its own federal identification number (FIN). In a custodial fund, the school district or area education agency merely renders a service as a custodian of the assets for the organization owning the assets and the school district or area education agency is not an owner. Custodial funds typically involve only the receipt, temporary investment and remittance of assets to their rightful owners.

98.101(1) *Sources of receipts in custodial funds.* Sources of receipts in custodial funds include temporary receipts of cash, investment instruments, property, and interest on investments held.

98.101(2) *Appropriate uses of custodial funds.* Appropriate disbursements from a custodial fund depend on the nature of the rightful owners' conditions or the responsibilities of the custodian. Typically, disbursement will involve remittance of assets to their rightful owners or to a third party on behalf and at the request of the rightful owners. The school district cannot disburse more funds at any point in time than it has received from the rightful owner.

98.101(3) *Inappropriate uses of custodial funds.* Inappropriate disbursements from custodial funds include any disbursement that is not consistent with the terms of the agreement, is not legal to a school district, or exceeds the amount of funds that have been received from the rightful owner or on behalf of the rightful owner.
[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.102 to **98.110** Reserved.

281—98.111(24,29C,257,298A) Emergency levy fund. A school district may levy a tax for the emergency fund upon the approval of the state appeals board. Once the levy has been received, the district may request approval of the school budget review committee to transfer the funds to any other fund of the district for the purpose of meeting deficiencies in a fund arising within two years of a disaster as defined in Iowa Code section 29C.2(1).

98.111(1) *Sources of revenue in the emergency levy fund.* Sources of revenue for the emergency levy fund include a tax levy not to exceed $0.27 per $1,000 of assessed value of taxable property, and interest on those moneys.

98.111(2) *Appropriate uses of emergency levy fund.* Appropriate expenditures in the emergency levy fund include only transfers to other funds for the purpose of meeting deficiencies in a fund arising within two years of a disaster and upon the approval of the school budget review committee.

98.111(3) *Inappropriate uses of emergency levy fund.* Inappropriate expenditures in the emergency levy fund include any expenditures other than a transfer to another fund and any transfer not approved by the school budget review committee.

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

281—98.112(275) Equalization levy fund. If necessary to equalize the division of liabilities and distribution of assets in a reorganization, merger, or dissolution, the board of a school district may provide for the levy of additional taxes upon the property of the former district so as to effect equalization pursuant to Iowa Code section 275.31. Once the levy has been received, the district will transfer the funds before the end of the fiscal year to the funds for which equalization was necessary and for which the taxes were levied.

98.112(1) *Sources of revenue for the equalization levy fund.* Sources of revenue for the equalization levy fund include a tax levy, pursuant to Iowa Code section 275.31, and interest on those moneys.

98.112(2) *Appropriate uses of the equalization levy fund.* Appropriate expenditures from the equalization levy fund are limited to transfers to the funds, in the same proportion, for which equalization was necessary and for which the taxes were levied.

98.112(3) *Inappropriate uses of the equalization levy fund.* Inappropriate uses of the equalization levy fund would include transfers to any fund for which equalization was not required or for which the equalization tax was not levied and any uses other than transfers.

[**ARC 7802C**, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code chapters 24, 29C, 76, 143, 256, 256B, 257, 274, 275, 276, 279, 280, 282, 283A, 284, 284A, 285, 291, 294A, 296, 298, 298A, 299A, 300, 301, 423E, 423F, 565, and 670 and sections 11.6(1)*"a"*(1), 256C.4(1)*"c,"* 256D.4(3) and 284.13.

[1][Filed ARC 8054B (Notice ARC 7781B, IAB 5/20/09), IAB 8/26/09, effective 9/30/09]
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[Filed ARC 5650C (Notice ARC 5462C, IAB 2/24/21), IAB 6/2/21, effective 7/7/21]
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[Filed ARC 6724C (Notice ARC 6584C, IAB 10/5/22), IAB 12/14/22, effective 1/18/23]
[Filed ARC 7802C (Notice ARC 7598C, IAB 2/7/24), IAB 4/17/24, effective 5/22/24]

[Filed ARC 8240C (Notice ARC 8140C, IAB 7/24/24), IAB 10/2/24, effective 11/6/24]

[1] September 30, 2009, effective date of 281—98.12(257,299A) and 281—98.112(275) delayed 70 days by the Administrative Rules Review Committee at its meeting held September 8, 2009. At its meeting held December 8, 2009, the Committee voted to delay the effective date of 281—98.12(257,299A) until the adjournment of the 2010 Session of the General Assembly.

[2] March 28, 2012, effective date of 98.12 and 98.64(2)*"e," "h"* delayed 30 days by the Administrative Rules Review Committee at its meeting held March 12, 2012.

CHAPTER 99
BUSINESS PROCEDURES AND DEADLINES

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/31/29

281—99.1(257) Definitions.

"Area education agency" or *"AEA"* means a school corporation organized under Iowa Code chapter 273.

"Basis of accounting" means the accrual/modified accrual accounting basis under generally accepted accounting principles (GAAP) as defined by the governmental accounting standards board (GASB) as of October 4, 2023.

"Basis of budgeting" means the accrual/modified accrual budgeting basis under GAAP as defined by the GASB as of October 4, 2023.

"SBRC" means the school budget review committee appointed pursuant to Iowa Code section 257.30.

"School district" means a school corporation organized under Iowa Code chapter 274.

"Unique" means highly unusual, extraordinary; unparalleled.

"Unusual" means not usual or common; rare; constituting or occurring as an exception; not ordinary or average.

"Usual" means that which past experience has shown to be normal or common or is anticipated to become normal or common, hence an expected or predictable event.

[**ARC 7417C**, IAB 12/27/23, effective 1/31/24]

281—99.2(256,257,285,291) Submission deadlines. It is the responsibility of the administrative officials and board members to submit information and materials as requested by the department of education, department of management, any other state agency, or any federal agency. Reports shall be filed electronically if an electronic format is available.

99.2(1) All school districts will submit program plans, reports, or data collections in the manner, by the procedures, and on the dates set by statute or by the department of education. Plans, reports, and data collections will include the following:

Vehicle Information System	September 1
Annual Transportation Report	September 15
Certified Annual Report (CAR-COA)	September 15
Special Education Supplement	September 15
Facilities, Elections & Save Report	September 30
Certified Enrollment Report/PEACE	October 15
Certified Supplementary Weighting Report	October 15
School Board Officers Report	November 1
Annual Audit Report	March 31
Certified Budget	April 15

99.2(2) All AEAs will submit program plans, reports, or data collections in the manner, by the procedures, and on the dates set by statute or by the department of education. Plans, reports, and data collections will include the following:

Certified Annual Report (CAR-COA)	September 15
Facilities Report	September 30
Certified Supplementary Weighting Report	October 15
School Board Officers Report	November 1
Proposed Budget	March 15
Annual Audit Report	March 31

99.2(3) If any plan, report, or data collection has not been received by the due date of the form or by the due date of a valid extension granted by the department of education, the following procedure will apply:

a. The superintendent of the school district or the administrator of the area education agency, and the president of the applicable board, will be notified of the unfiled report and the number of days it is past due.

b. The state board of education, the SBRC, or the Iowa board of educational examiners may be notified of the school districts or AEAs that were not timely in filing one or more reports.

c. The SBRC may implement the procedures described in 289—subrule 6.3(5).

[**ARC 7417C**, IAB 12/27/23, effective 1/31/24]

281—99.3(257) Good cause for late submission.

99.3(1) The department of education may, upon request, allow a school district or AEA to submit reports, data collections, or program plans after the due dates listed in rule 281—99.2(256,257,285,291) for good cause.

a. Good cause includes illness or death of a school district or AEA staff member involved in developing the program plan or submitting the report or data collection; acts of God; technological problems at the department lasting at least seven days within the final two weeks prior to the deadline that prevent access necessary for the plan, report, or data collection submission; or unforeseeable unusual or unique circumstances, which, in the opinion of the director of the department, constitute sufficient cause for allowing submission of program plans, reports, or data collections after the published due date.

b. Good cause does not include consequences of local time management or administrative decisions or when districts and AEAs have timed out or have encountered system overloads within the final three days before the due date.

99.3(2) A school district or AEA requesting permission to submit a program plan, report, or data collection after the published due date will notify the department staff member responsible for receiving the plan, report, or data collection as soon as possible upon determining that the district or AEA will not be able to meet the deadline, but no sooner than two weeks prior to the due date and no later than two days prior to the due date. When an extension of the submission deadline is allowed, the department will establish a date by which the school district or AEA will submit the plan, report, or data collection. Permission to submit a program plan, report, or data collection after the published due date expires upon receipt of the submission by the department and does not carry over into subsequent application or reporting cycles.

[**ARC 7417C**, IAB 12/27/23, effective 1/31/24]

281—99.4(24,256,257,291) Budgets, accounting, and reporting. The school district or AEA will budget on the GAAP basis of budgeting. School districts and AEAs will use the chart of accounts defined in the Uniform Financial Accounting Manual for Iowa LEAs and AEAs (UFA manual). The school district or AEA will maintain its financial records and prepare financial reports, including the Certified Annual Report, in the manner and by the procedures set by the departments of education and management in the UFA manual and GAAP. School districts and AEAs will use the chart of accounts defined in the UFA manual. The UFA manual is based on the Financial Accounting for Local and State School Systems published by the United States Department of Education, as of October 4, 2023. If GAAP permits a choice of reporting methods for transactions, or if GAAP conflicts with the UFA manual, the department of education staff will determine a uniform method of reporting to be used by all school districts and AEAs.

[**ARC 7417C**, IAB 12/27/23, effective 1/31/24]

These rules are intended to implement Iowa Code chapters 24, 256, 257, 285 and 291.

[Filed ARC 0013C (Notice ARC 9916B, IAB 12/14/11), IAB 2/22/12, effective 3/28/12][1]

[Editorial change: IAC Supplement 3/21/12]

[Filed ARC 7417C (Notice ARC 7099C, IAB 10/4/23), IAB 12/27/23, effective 1/31/24]

[1] March 28, 2012, effective date of Chapter 99 delayed 30 days by the Administrative Rules Review Committee at its meeting held March 12, 2012.

CHAPTER 100
VISION IOWA SCHOOL INFRASTRUCTURE PROGRAM
Rescinded IAB 12/16/09, effective 1/20/10

TITLE XVII
PROTECTION OF CHILDREN

CHAPTER 101
CHILD ABUSE REPORTING
Reserved

CHAPTER 102
PROCEDURES FOR CHARGING AND INVESTIGATING INCIDENTS OF ABUSE OF STUDENTS BY SCHOOL EMPLOYEES

Chapter rescission date pursuant to Iowa Code section 17A.7: 5/22/29

281—102.1(280) Definitions.

"Abuse" may fall into either of the following categories:

1. *"Physical abuse"* means nonaccidental physical injury to the student as a result of the actions of a school employee.

2. *"Sexual abuse"* means any sexual offense as defined by Iowa Code chapter 709 or Iowa Code section 728.12(1). The term also encompasses acts of the school employee that encourage the student to engage in prostitution as defined by Iowa law, as well as inappropriate, intentional sexual behavior, or sexual harassment by the school employee toward a student.

"Board of educational examiners" means the board created in Iowa Code chapter 256, subchapter VII, part 3.

"Designated investigator" means the person or persons appointed by the board of directors of a public school district, or the authorities in control of a nonpublic school, at level one, to investigate allegations or reports of abuse of students by school employees and also refers to the appointed alternate.

"Incident" means an occurrence of behavior that meets the definition of physical or sexual abuse in these rules.

"Injury" occurs when evidence of it is still apparent at least 24 hours after the occurrence.

"Nonpublic school" means any school in which education is provided to a student, other than in a public school or in the home of the student.

"Preponderance of evidence" means reliable, credible evidence that is of greater weight than evidence offered in opposition to it.

"Public school" means any school directly supported in whole or in part by taxation.

"Reasonable force" means that force, and no more, that a reasonable person, in like circumstances, would judge to be necessary to prevent an injury or loss and can include deadly force if it is reasonable to believe that such force is necessary to avoid injury or risk to one's life or safety or the life or safety of another, or it is reasonable to believe that such force is necessary to resist a like force or threat.

"School employee" means a person who works for pay or as a volunteer under the direction and control of:

1. The board of directors or any administrator of a public school district.
2. The board or authorities in control of a nonpublic school.
3. The board of directors or administrator of an agency called upon by a school official to provide services in an educational capacity to students.
4. A residential institution, not currently covered by Iowa Code chapter 232, providing educational services.

School employees are of two classes: licensed and unlicensed. A licensed employee holds an Iowa teacher's certificate issued by the board of educational examiners.

"Sexual harassment" means unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature when:

1. Submission to the conduct is made either implicitly or explicitly a term or condition of the student's education or benefits;
2. Submission to or rejection of the conduct is used as the basis for academic decisions affecting that student; or
3. The conduct has the purpose or effect of substantially interfering with a student's academic performance by creating an objectively intimidating, hostile, or offensive education environment.

"Student" means a person enrolled in a public or nonpublic school or a prekindergarten program in a public or nonpublic school established under Iowa law, a child enrolled in a day care program operated by a

public school or merged area school under Iowa Code section 279.49, or a resident between the ages of 5 and 21 of a state facility providing incidental formal education.
[**ARC 7803C**, IAB 4/17/24, effective 5/22/24]

281—102.2(280) Jurisdiction. To constitute a violation of these rules, acts of the school employee must be alleged to have occurred on school grounds, on school time, on a school-sponsored activity, or in a school-related context. To be investigable, the written report is to include basic information showing that the student allegedly abused is or was a student at the time of the incident, that the alleged act of the school employee resulted in injury or otherwise meets the definition of abuse in these rules, and that the person responsible for the act is currently a school employee.

If the report is not investigable due to the absence of any of the jurisdictional facts, the level-one investigator will dismiss the complaint as lacking jurisdiction and notify the person filing the report of abuse of the options remaining as listed in paragraph 102.10(1)*"i."* The dismissal of a report of abuse for lack of jurisdiction does not bar school officials from further forms of investigation and disciplinary action.
[**ARC 7803C**, IAB 4/17/24, effective 5/22/24]

281—102.3 Reserved.

281—102.4(280) Exceptions.

102.4(1) The following do not constitute physical abuse, and no school employee is prohibited from:

a. Using reasonable and necessary force, not designed or intended to cause pain:

(1) To quell a disturbance or prevent an act that threatens physical harm to any person.

(2) To obtain possession of a weapon or other dangerous object within a pupil's control.

(3) For the purposes of self-defense or defense of others as provided for in Iowa Code section 704.3.

(4) For the protection of property as provided for in Iowa Code section 704.4 or 704.5.

(5) To remove a disruptive pupil from class, or any area of school premises or from school-sponsored activities off school premises.

(6) To prevent a student from the self-infliction of harm.

(7) To protect the safety of others.

b. Using incidental, minor, or reasonable physical contact to maintain order and control.

102.4(2) In determining the reasonableness of the contact or force used, the following factors will be considered:

a. The nature of the misconduct of the student, if any, precipitating the physical contact by the school employee.

b. The size and physical condition of the student.

c. The instrumentality used in making the physical contact.

d. The motivation of the school employee in initiating the physical contact.

e. The extent of injury to the student resulting from the physical contact.

102.4(3) The provisions of this rule apply only at the level-two stage of any investigation and will not be considered by a level-one investigator.
[**ARC 7803C**, IAB 4/17/24, effective 5/22/24]

281—102.5(280) Duties of school authorities. The board of directors of a public school district and the authorities in control of a nonpublic school shall:

102.5(1) Annually identify at least one designated investigator and alternate investigator at an open public meeting.

102.5(2) Adopt written procedures that establish persons to whom the school authorities will delegate a second level of investigation beyond the level-one procedures specifically described in these rules, including law enforcement authorities or the county attorney's office, personnel of the local office of the department of health and human services, or private parties experienced and knowledgeable in the area of abuse investigation. The second-level investigator is not to be a school employee and is considered an independent contractor if remunerated for services rendered. The second-level investigator is to be made

aware of any request under this rule and be offered an opportunity to decline the request, with reasons given.

The adopted procedures are to conform to these rules and include provisions for the safety of a student when, in the opinion of the investigator, the student would be placed in imminent danger if continued contact is permitted between the school employee and the student. These provisions will include the options of:

a. Temporary removal of the student from contact with the school employee.

b. Temporary removal of the school employee from service.

c. Any other appropriate action permissible under Iowa law to ensure the student's safety.

The adopted written procedures will include a statement that the investigators appointed and retained under this chapter have access to any educational records of the allegedly abused student and access to the student for purposes of interviewing and investigating the allegation.

102.5(3) Annually publish the names or positions and telephone numbers or other contact information of the designated investigator and alternate:

a. In the student handbook,

b. In a local newspaper of general circulation, and

c. Prominently post the same information in all buildings operated by the school authorities.

102.5(4) Arrange for in-service training for the designated investigator and alternate. Initial training should be undertaken within six months of appointing a level-one investigator or alternate. Follow-up training should be undertaken at least once every five years.

102.5(5) Place on administrative leave a school employee who is the subject of an investigation under this chapter of an alleged incident of physical or sexual abuse, once the level-one investigator has determined that the written complaint is investigable under rule 281—102.3(280).

102.5(6) Report to the board of educational examiners the results of an investigation that finds that the school employee's conduct constitutes a crime.

[**ARC 7803C**, IAB 4/17/24, effective 5/22/24]

281—102.6(280) Filing of a report.

102.6(1) *Who may file.* Any person who has knowledge of an incident of abuse of a student committed by a school employee may file a report with the designated investigator.

102.6(2) *Content of report.* The report is to be in writing, signed, and, if signed by a minor, witnessed by a person of majority age and contain the following information:

a. The full name, address, and telephone number of the person filing.

b. The full name, age, address, telephone number, and attendance center of the student.

c. The name and place of employment of the school employee(s) or agents who allegedly committed the abuse.

d. A concise statement of the facts surrounding the incident, including date, time, and place of occurrence, if known.

e. A list of possible witnesses by name, if known.

f. Names and locations of any and all persons who examined, counseled or treated the student for the alleged abuse, including the dates on which those services were provided, if known.

102.6(3) *Incomplete reports.* The designated investigator shall aid parties requesting assistance in completing the report. An incomplete report will not be rejected unless a reasonable person would conclude that the missing information that is unable to be provided by the reporter would render investigation futile or impossible. An unsigned (anonymous) or unwitnessed report may be investigated, but the designated investigator then has no duty to report findings and conclusions to the reporter.

[**ARC 7803C**, IAB 4/17/24, effective 5/22/24]

281—102.7(280) Receipt of report. Any school employee receiving a report of alleged abuse of a student by a school employee shall immediately give the report to the designated investigator or alternate and not reveal the existence or content of the report to any other person.

[**ARC 7803C**, IAB 4/17/24, effective 5/22/24]

281—102.8(280) Duties of designated investigator—physical abuse allegations.

102.8(1) Upon receipt of the report, the designated investigator will make and provide a copy of the report to the person filing, to the student's parent or guardian if different from the person filing and to the supervisor of the employee named in the report. The school employee named in the report is to receive a copy of the report at the time the employee is initially interviewed by any investigator. However, if this action would conflict with the terms of a contractual agreement between the employer and employee, the terms of the contract control.

102.8(2) Within five school days of receipt of a report of physical abuse, the designated investigator will conduct and complete an informal investigation after reviewing the report to determine that the allegations, if true, support the exercise of jurisdiction pursuant to rule 281—102.3(280).

102.8(3) If, in the investigator's opinion, the magnitude of the allegations in the report suggests immediate and professional investigation is necessary, the designated investigator may temporarily defer the level-one investigation. In cases of deferred investigation, the investigator shall contact appropriate law enforcement officials, the student's parent or guardian and the person filing the report, if different from the student's parent or guardian, documenting in writing the action taken.

102.8(4) The investigator shall interview the allegedly abused student, any witnesses or persons who may have knowledge of the circumstances contained in the report, and the school employee named in the report. The investigator will exercise prudent discretion in the investigative process to preserve the privacy interests of the individuals involved. To the maximum extent possible, the investigator shall maintain the confidentiality of the report.

102.8(5) The designated investigator's role is not to determine the guilt or innocence of the school employee, the applicability of the exceptions or reasonableness of the contact or force listed in rule 281—102.4(280). The designated investigator shall determine, by a preponderance of the evidence, whether it is likely that an incident took place between the student and the school employee. However, if the complaint has been withdrawn, the allegation recanted, or the employee has resigned, admitted the violation, or agreed to relinquish the employee's teacher's certificate or license, the designated investigator may, but need not, conclude the investigation at level one. The designated investigator will follow the applicable provisions of paragraphs 102.11(2)*"b"* and *"c"* when resolution occurs at level one.

The level-two investigator appointed, contracted, requested or retained under subrule 102.5(2), when called upon for further investigation, will consider the applicability of the exceptions listed in rule 281—102.4(280) and the reasonableness of the contact or force used under subrule 102.4(2) in reaching conclusions as to the occurrence of physical abuse as defined by these rules.

102.8(6) Within 15 calendar days of receipt of the report, the designated investigator will complete a written investigative report, unless investigation was temporarily deferred.

[**ARC 7803C**, IAB 4/17/24, effective 5/22/24]

281—102.9(280) Duties of designated investigator—sexual abuse allegations.

102.9(1) Upon receipt of the report, the designated investigator will make and provide a copy of the report to the person filing the report, to the student's parent or guardian if different from the person filing the report, and to the supervisor of the employee named in the report. The school employee named in the report shall receive a copy of the report at the time the employee is initially interviewed by any investigator. However, if this action would conflict with the terms of a contractual agreement between the employer and employee, the terms of the contract control. The designated investigator shall not interview the school employee named in a report of sexual abuse until after a determination that jurisdiction exists is made, the allegedly abused student has been interviewed, and a determination is made that the investigation will not be deferred under subrule 102.9(5).

102.9(2) Upon receipt of a report of sexual abuse or other notice of an allegation of sexual abuse, the designated investigator shall review the facts alleged to determine that the allegations, if true, support the exercise of jurisdiction pursuant to rule 281—102.3(280).

102.9(3) The investigator shall notify the parent, guardian, or legal custodian of a child in prekindergarten through grade six of the date and time of the interview and of the right to be present or to see and hear the interview or to send a representative in the parent's, guardian's, or legal custodian's place. The investigator shall interview the allegedly abused student as soon as possible, but in no case later than

five days from the receipt of a report or notice of the allegation of sexual abuse. The investigator may record the interview electronically.

The investigator shall exercise prudent discretion in the investigative process to preserve the privacy interests of the individuals involved. To the maximum extent possible, the investigator shall maintain the confidentiality of the report.

102.9(4) The designated investigator's role is not to determine the guilt or innocence of the school employee. The designated investigator shall determine, by a preponderance of the evidence and based upon the investigator's training and experience and the credibility of the student, whether it is likely that an incident took place between the student and the school employee. However, if the complaint has been withdrawn, the allegation recanted, or the employee has resigned, admitted the violation, or agreed to relinquish the employee's teacher's certificate or license, the designated investigator may, but need not, conclude the investigation at level one. The designated investigator will follow the applicable provisions of paragraphs 102.11(2)*"b"* and *"c"* when resolution occurs at level one.

102.9(5) If, in the investigator's opinion, it is likely that an incident in the nature of sexual abuse as defined by Iowa Code chapter 709 or section 728.12(1) took place, the investigator shall temporarily defer further level-one investigation. In cases of deferred investigation, the investigator shall immediately contact appropriate law enforcement officials, notifying the student's parent or guardian, and the person filing the report, if different from the student's parent or guardian, of the action taken.

If, in the investigator's opinion, an incident occurred that would not constitute sexual abuse as defined in Iowa Code chapter 709 or sexual exploitation as defined by Iowa Code section 728.12(1), but that was in the nature of inappropriate, intentional sexual behavior by the school employee, further investigation is warranted. The investigator may proceed to interview the school employee named in the report. Prior to interviewing any collateral sources who may have knowledge of the circumstance contained in the report, the investigator will provide notice of the impending interview of student witnesses who are in prekindergarten through grade six, to their parent, guardian, or legal custodian, and may provide notice to the parent or guardian of older students, prior to interviewing those students.

If, in the investigator's opinion, the allegation of sexual abuse is unfounded either because the conduct did not occur or the conduct did not meet the definition of abuse in these rules, further investigation is not warranted. The investigator shall notify the student's parent or guardian, the person filing the report, if different from the student's parent or guardian, and the school employee named in the report of this conclusion in a written investigative report.

102.9(6) Within 15 calendar days of receipt of the report or notice of alleged sexual abuse, the designated investigator will complete a written investigation report unless the investigation was temporarily deferred.

[**ARC 7803C**, IAB 4/17/24, effective 5/22/24]

281—102.10(280) Content of investigative report.

102.10(1) The written investigative report is to include:

a. The name, age, address, and attendance center of the student named in the report.

b. The name and address of the student's parent or guardian and the name and address of the person filing the report, if different from the student's parent or guardian.

c. The name and work address of the school employee named in the report as allegedly responsible for the abuse of the student.

d. An identification of the nature, extent, and cause, if known, of any injuries or abuse to the student named in the report.

e. A general review of the investigation.

f. Any actions taken for the protection and safety of the student.

g. A statement that, in the investigator's opinion, the allegations in the report are either:

(1) Unfounded. (It is not likely that an incident, as defined in these rules, took place), or

(2) Founded. (It is likely that an incident took place.)

h. The disposition or current status of the investigation.

i. A listing of the options available to the parents or guardian of the student to pursue the allegations. These options include:

(1) Contacting law enforcement.

(2) Contacting private counsel for the purpose of filing a civil suit or complaint.

(3) Filing a complaint with the board of educational examiners if the school employee is certificated.

102.10(2) The investigator shall retain the original and provide a copy of the investigative report to the school employee named in the report, the school employee's supervisor and the named student's parent or guardian. The person filing the report, if not the student's parent or guardian, shall be notified only that the level-one investigation has been concluded and of the disposition or anticipated disposition of the case.

[**ARC 7803C**, IAB 4/17/24, effective 5/22/24]

281—102.11(280) Founded reports—designated investigator's duties.

102.11(1) The investigator shall notify law enforcement authorities in founded cases of serious physical abuse and in any founded case of sexual abuse under Iowa Code chapter 709 or sexual exploitation under Iowa Code section 728.12(1). In founded cases of less serious physical incidents or sexual incidents not in the nature of statutory sexual abuse or exploitation as defined by Iowa law, the investigator shall arrange for the level-two investigator to carry out a professional investigation unless the level-one investigation has resulted in a final disposition of the investigation. In addition, the designated investigator shall give a copy of the investigative report to the employee's supervisor and document all action taken.

102.11(2) Upon receipt of the level-two investigator's report under rule 281—102.12(280) or upon resolution of the investigation at level one, the designated investigator will:

a. Forward copies of the level-two investigator's report to the student's parent or guardian, the school employee named in the complaint, and the school employee's supervisor; notify the person filing the report, if different from the student's parent or guardian, of the disposition of the case or current status of the investigation;

b. File a complaint against the school employee who has been found to have physically or sexually abused a student, if that employee holds a teaching certificate, coaching authorization, or practitioner license, with the board on behalf of the school or district by obtaining the superintendent's signature on the complaint in cases where the level-two investigator or law enforcement officials have concluded abuse occurred as defined in these rules or where the employee has admitted the violation or agreed to surrender the employee's certificate or license. The designated investigator has discretion to file a complaint with the board in situations where the employee has resigned as a result of the allegation or investigation but has not admitted that a violation occurred. In the event an employee holding a school bus driver permit has been found to have physically or sexually abused a student, the designated investigator shall file a written complaint with the school transportation consultant at the department of education; the designated investigator shall file a written complaint with the local school board in founded cases involving other nonlicensed school employees; and

c. Arrange for counseling services for the student on request of the student, or the student's parent or guardian.

[**ARC 7803C**, IAB 4/17/24, effective 5/22/24]

281—102.12(280) Level-two investigator's duties.

102.12(1) Upon referral by the designated investigator, the level-two investigator appointed, contracted, requested or retained under subrule 102.5(2) shall review the report of abuse and the designated investigator's report, if any, promptly conduct further investigation and create a written narrative report. The level-two investigator's report shall state:

a. Conclusions as to the occurrence of the alleged incident; and

b. Conclusions as to the applicability of the exceptions to physical abuse listed in rule 281—102.4(280); or

c. Conclusions as to the nature of the sexual abuse, if any; and

d. Recommendations regarding the need for further investigation.

102.12(2) The written report shall be delivered to the designated investigator as soon as practicable.

102.12(3) The level-two investigator shall exercise prudent discretion in the investigative process to preserve the privacy interests of the individuals involved. To the maximum extent possible, the level-two investigator shall maintain the confidentiality of the report.
[**ARC 7803C**, IAB 4/17/24, effective 5/22/24]

281—102.13(280) Retention of records.

102.13(1) Any record created by an investigation will be handled according to formally adopted or bargained policies on the maintenance of personnel or other confidential records. Notes, tapes, memoranda, and related materials compiled in the investigation will be retained by the public or nonpublic school for a minimum of two years.

102.13(2) Unfounded reports shall not be placed in an employee's personnel file. If a report is founded at level one and unfounded at level two, the founded report from the level-one investigator shall be removed immediately upon receipt of an unfounded report from the level-two investigator.
[**ARC 7803C**, IAB 4/17/24, effective 5/22/24]

281—102.14(280) Substantial compliance. Because investigative procedures seldom allow for rigid observance of the protocol, substantial compliance with the rules is required with the overriding goal of reaching a fair and unbiased resolution of the complaint.

These rules are intended to implement Iowa Code section 280.17.

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[1] Effective date of the following delayed seventy days by the Administrative Rules Review Committee at its meeting held January 5, 1993: 102.2(280), definitions of "Abuse," "Board of educational examiners," "Incident," "Injury," "Sexual harassment"; 102.3(280); 102.4(2), introductory paragraph; 102.8(5); 102.9(1), first sentence; 102.9(3), introductory paragraph; 102.9(4); 102.9(5), first and second unnumbered paragraphs; 102.10(280)"7"; 102.10(280), last paragraph; 102.11(280)"2"; 102.12(280), introductory paragraph; new 102.14(280); delay lifted by the Committee on February 8, 1993, effective February 9, 1993.

CHAPTER 103
CORPORAL PUNISHMENT, PHYSICAL RESTRAINT, SECLUSION, AND OTHER PHYSICAL CONTACT WITH STUDENTS

Chapter rescission date pursuant to Iowa Code section 17A.7: 5/22/29

281—103.1(256B,280) Purpose and objectives. The purpose of this chapter is to provide uniform definitions and policies for public school districts, accredited nonpublic schools, and area education agencies regarding the application of physical contact or force to enrolled students. These rules clarify that corporal punishment, prone restraint, and mechanical restraint are prohibited; explain the parameters and protocols for the use of physical restraint and seclusion; and describe other limits on physical contact with students. The applicability of this chapter to physical restraint, seclusion, or behavior management interventions does not depend on the terminology employed by the organization to describe the activity or space. These rules are intended to promote the dignity, care, safety, welfare, and security of each child and the school community; encourage the use of proactive, effective, and evidence- and research-based strategies and best practices to reduce the occurrence of challenging behaviors; increase meaningful instructional time for all students; ensure that seclusion and physical restraint are used only in specified circumstances and are subject to assessment, monitoring, documentation, and reporting by trained employees; and give clear guidance on whether a disciplinary or behavioral management technique is prohibited or may be used.
[**ARC 7804C**, IAB 4/17/24, effective 5/22/24]

281—103.2(256B,280) Definitions. For the purposes of this chapter:

"Bodily injury" means physical pain, illness, or any impairment of physical condition.

"Corporal punishment" means the intentional physical punishment of a student. "Corporal punishment" includes the use of unreasonable or unnecessary physical force, or physical contact made with the intent to harm or cause pain.

"Debriefings" means meetings to collaboratively examine and determine what caused an incident or incidents resulting in the use of physical restraints or seclusion, how the incident or the use of physical restraints or seclusion or both could have been avoided and how future incidents could be avoided, and to plan for and implement positive and preventative supports. The debriefing process is intended to improve future outcomes by reducing the likelihood of future problem behavior and the subsequent use of physical restraint or seclusion.

"Mechanical restraint" means the use of a device as a means of restricting a student's freedom of movement. "Mechanical restraint" does not mean a device used by trained school personnel, or used by a student, for the specific and approved therapeutic or safety purposes for which such a device was designed and, if applicable, prescribed, including restraints for medical immobilization, adaptive devices or mechanical supports used to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports, and vehicle safety restraints when used as intended during the transport of a student in a moving vehicle.

"Parent" means an individual included in the definition of "parent" in rule 281—41.30(256B,34CFR300), and also includes an individual authorized to make decisions for the child pursuant to a power of attorney for temporary delegation of custody or for making educational decisions.

"Physical restraint" means a personal restriction that immobilizes or reduces the ability of a child to move the child's arms, legs, body, or head freely. "Physical restraint" does not mean a technique used by trained school personnel, or used by a student, for the specific and approved therapeutic or safety purposes for which such a technique was designed and, if applicable, prescribed. "Physical restraint" does not include instructional strategies, such as physically guiding a student during an educational task, hand-shaking, hugging, or other nondisciplinary physical contact.

"Prone restraint" means any restraint in which the child is held face down on the floor.

"Reasonable and necessary force" means that force, and no more, that a reasonable person would judge to be necessary under the circumstances that existed at the time, that is not intended to cause pain,

and that does not exceed the degree or duration required to accomplish the purposes set forth in rule 281—103.5(256B,280).

"School" includes public school districts, accredited nonpublic schools, and area education agencies.

"Seclusion" means the involuntary confinement of a child in a seclusion room or area from which the child is prevented or prohibited from leaving; however, preventing a child from leaving a classroom or school building is not considered seclusion. "Seclusion" does not include instances when a school employee is present within the room and providing services to the child, such as crisis intervention or instruction.

"Seclusion room" means a room, area, or enclosure, whether within or outside the classroom, used for seclusion.

[**ARC 7804C**, IAB 4/17/24, effective 5/22/24]

281—103.3(256B,280) Ban on corporal punishment and prone and mechanical restraints. An employee shall not inflict, or cause to be inflicted, corporal punishment upon a student or use prone restraints or mechanical restraints upon a student.

[**ARC 7804C**, IAB 4/17/24, effective 5/22/24]

281—103.4(256B,280) Activities that are not considered corporal punishment. Corporal punishment does not include the following:

1. Verbal recrimination or chastisement directed toward a student;
2. Reasonable requests or requirements of a student engaged in activities associated with physical education class or extracurricular athletics;
3. Actions consistent with and included in an individualized education program (IEP) developed under the Individuals with Disabilities Education Act, as reauthorized through February 7, 2024, Iowa Code chapter 256B, and 281—Chapter 41; a behavior intervention plan (BIP); an individual health plan (IHP); or a safety plan. However, under no circumstance may an IEP, BIP, IHP, or safety plan violate the provisions of this chapter;
4. Reasonable periods of detention, not in excess of school hours, or brief periods of detention before or after school, in a seat, classroom, or other part of a school facility;
5. Actions by an employee subject to these rules toward a person who is not a student of the school or receiving the services of a school employing or utilizing the services of the employee.

[**ARC 7804C**, IAB 4/17/24, effective 5/22/24]

281—103.5(256B,280) Use of reasonable and necessary force.

103.5(1) Notwithstanding the ban on corporal punishment in rule 281—103.3(256B,280), no employee subject to these rules is prohibited from:

a. Using reasonable and necessary force, not designed or intended to cause pain, in order to accomplish any of the purposes listed in Iowa Code section 280.21(2).

b. Using incidental, minor, or reasonable physical contact to maintain order and control.

103.5(2) An employee subject to these rules is not privileged to use unreasonable force to accomplish any of the purposes listed above.

[**ARC 7804C**, IAB 4/17/24, effective 5/22/24]

281—103.6(256B,280) Reasonable force.

103.6(1) In determining the reasonableness of the physical force used by a school employee, the following factors will be applied:

a. The size and physical, mental, and psychological condition of the student;

b. The nature of the student's behavior or misconduct resulting in the use of physical force;

c. The instrumentality used in applying the physical force;

d. The extent and nature of resulting injury to the student, if any, including mental and psychological injury;

e. The motivation of the school employee using the physical force.

103.6(2) Reasonable physical force, privileged at its inception, does not lose its privileged status by reasons of an injury to the student, not reasonably foreseeable or otherwise caused by intervening acts of another, including the student.

[**ARC 7804C**, IAB 4/17/24, effective 5/22/24]

281—103.7(256B,280) Reasonable and necessary force—use of physical restraint or seclusion.

103.7(1) Physical restraint or seclusion is reasonable and necessary only:

a. To prevent or terminate an imminent threat of bodily injury to the student or others; or

b. To prevent serious damage to property of significant monetary value or significant nonmonetary value or importance; or

c. When the student's actions seriously disrupt the learning environment or when physical restraint or seclusion is necessary to ensure the safety of the student and others; and

d. When less restrictive alternatives to seclusion or physical restraint would not be effective, would not be feasible under the circumstances, or have failed in preventing or terminating the imminent threat or behavior; and

e. When the physical restraint or seclusion complies with all the rules of this chapter.

103.7(2) If seclusion or physical restraint is utilized, the following provisions apply:

a. The seclusion or physical restraint must be imposed by an employee who:

(1) Is trained in accordance with rule 281—103.8(256B,280); or

(2) Is otherwise available and a trained employee is not immediately available due to the unforeseeable nature of the occurrence.

b. A school will attempt to notify the student's parent using the school's emergency contact system as soon as practicable after the situation is under control, but no later than one hour or the end of the school day, whichever occurs first.

c. The seclusion or physical restraint must only be used for as long as is necessary, based on research and evidence, to allow the student to regain control of the student's behavior to the point that the threat or behavior necessitating the use of the seclusion or physical restraint has ended, or when a medical condition occurs that puts the student at risk of harm.

Unless otherwise provided for in the student's written, approved IEP, BIP, IHP, or safety plan, if the seclusion or physical restraint continues for more than 15 minutes:

(1) The student shall be provided with any necessary breaks to attend to personal and bodily needs, unless doing so would endanger the child or others.

(2) An employee shall obtain approval from an administrator or administrator's designee to continue the seclusion or physical restraint beyond 15 minutes. After the initial approval, an employee must obtain additional approval every 30 minutes thereafter for the continuation of the seclusion or physical restraint. Approval will be documented in accordance with rule 281—103.8(256B,280).

(3) The student's parent and the school may agree to more frequent notifications than is provided by this subrule.

(4) Schools and employees will document and explain in writing, as provided by subrule 103.8(2), the reasons why it was not possible for them to obtain approval, notify parents, or take action under paragraphs 103.7(2)*"b"* and *"c"* within the prescribed time limits.

(5) Schools and employees who initiate and then end the use of nonapproved restraints must document and explain in writing the reasons why they had no other option but to use this type of behavioral intervention. This subparagraph is not intended to excuse or condone the use of nonapproved restraints.

d. The area of seclusion shall be a designated seclusion room that complies with the seclusion room requirements of rule 281—103.9(256B,280), unless the nature of the occurrence makes the use of the designated seclusion room impossible, clearly impractical, or clearly contrary to the safety of the student, others, or both; in that event, the school must document and explain in writing the reasons why a designated seclusion room was not used.

e. An employee must continually visually monitor the student for the duration of the seclusion or physical restraint.

f. An employee shall not use any physical restraint that obstructs the airway of the student.

g. If an employee restrains a student who uses sign language or an augmentative mode of communication as the student's primary mode of communication, the student shall be permitted to have the student's hands free of physical restraint, unless doing so is not feasible in view of the threat posed.

h. Seclusion or physical restraint shall not be used:

(1) As punishment or discipline;

(2) To force compliance or to retaliate;

(3) As a substitute for appropriate educational or behavioral support;

(4) To prevent property damage except as described in paragraph 103.7(1)*"b"*;

(5) As a routine school safety measure; or

(6) As a convenience to staff.

103.7(3) An employee must document the use of the seclusion or physical restraint in accordance with rule 281—103.8(256B,280).

103.7(4) Nothing in this rule will be construed as limiting or eliminating any immunity conferred by Iowa Code section 280.21, rule 281—103.11(256B,280), or any other provision of law.

103.7(5) An agency covered by this chapter will investigate any complaint or allegation that one or more of its employees violated one or more provisions of this chapter. If an agency covered by this chapter determines that one or more of its employees violated one or more of the provisions of this chapter, the agency will take appropriate corrective action. If any allegation involves a specific student, the agency will transmit to the parents of the student the results of its investigation, including, to the extent permitted by law, any ordered corrective action.

103.7(6) If a child's IEP, BIP, IHP, or safety plan includes either or both physical restraint or seclusion measures, those measures will be individualized to the child; described with specificity in the child's IEP, BIP, IHP, or safety plan; and be reasonably calculated to enable the child to make progress appropriate in light of the child's circumstances.

103.7(7) These rules are binding whether or not a parent consents to the use of physical restraint or seclusion for the child.

103.7(8) If any alleged violation of this chapter is also an allegation of "abuse" as defined in rule 281—102.2(280), the procedures in 281—Chapter 102 are applicable.

103.7(9) Schools must provide a copy of this chapter and any school-adopted or school-used related policies, procedures and training materials to any individual who is not an employee but whose duties could require the individual to participate in or be present when physical restraints are or seclusion is being used. Schools must invite these individuals to participate in training offered to employees pursuant to this chapter.

103.7(10) The provisions of Iowa Code section 280.21(3) and 280.21(4) apply to proceedings under this chapter.

[**ARC 7804C**, IAB 4/17/24, effective 5/22/24]

281—103.8(256B,280) Training, documentation, debriefing, and reporting requirements.

103.8(1) *Training.* An employee must receive training prior to using any form of physical restraint or seclusion. Training will cover the following topics:

a. The rules of this chapter;

b. The school's specific policies and procedures regarding the rules of this chapter;

c. Student and staff debriefing requirements;

d. Positive behavior interventions and supports, and evidence-based approaches to student discipline and classroom management;

e. Research-based alternatives to physical restraint and seclusion;

f. Crisis prevention, crisis intervention, and crisis de-escalation techniques;

g. Duties and responsibilities of school resource officers and other responders, and the techniques, strategies and procedures used by responders; and

h. Safe and effective use of physical restraint and seclusion.

103.8(2) *Documentation and reporting.* Schools must maintain documentation for each occurrence of physical restraint and seclusion. Documentation will contain at least the following information:

a. The name of the student;

b. The names and job titles of employees who observed, implemented, or were involved in administering or monitoring the use of seclusion or physical restraints, including the administrator or individual who approved continuation of the seclusion or physical restraint pursuant to subparagraph 103.7(2)*"c"*(2);

c. The date of the occurrence;

d. The beginning and ending times of the occurrence;

e. The date the employees who observed, implemented, or were involved in administering or monitoring the use of seclusion or physical restraints last completed training necessary under subrule 103.8(1);

f. A description of the actions of the student before, during, and after the seclusion or physical restraint;

g. A description of the actions of the employee(s) involved before, during, and after the seclusion or physical restraint, including the use of a nonapproved restraint (subparagraph 103.7(2)*"c"*(5)) or the use of other than a designated seclusion room (paragraph 103.7(2)*"d"*);

h. Documentation of approvals for continuation of the seclusion or physical restraint period generated in accordance with subrule 103.7(2), including why it was not possible to obtain approval;

i. A description of the less restrictive means attempted as alternatives to seclusion or physical restraint;

j. A description of any injuries, whether to the student or others, and any property damage;

k. A description of future approaches to address the student's behavior, including any consequences or disciplinary actions that may be imposed on the student; and

l. The time and manner by which the school notified the student's parent of the use of physical restraint or seclusion, including why it was not possible to attempt to give notice within the time specified by paragraph 103.7(2)*"b."*

Schools must provide the student's parent with a written copy of the report by the end of the third school day following the occurrence. The report will be accompanied by a letter inviting the parent to participate in a debriefing meeting, if necessary under subrule 103.8(3), to be held within five school days of the day the report and letter are mailed to or provided to the parent. The letter will include the date, time and place of the meeting and the names and titles of employees and other individuals who will attend the meeting. The parent may elect to receive the report and the letter via electronic mail or facsimile or by obtaining a copy at the school. If the parent does not provide instructions to the school or enter into an agreement with the school for alternate dates and methods of delivery, the school must mail the letter and report to the parent by first-class mail, postage prepaid, postmarked by end of the third school day after the occurrence.

103.8(3) *Debriefing.*

a. Schools must hold a debriefing meeting as soon as practicable whenever provided by paragraph 103.8(3)*"f,"* but within five school days of the day the report and letter are mailed or provided to the parent, unless a parent who wants to participate personally or through a representative asks for an extension of time, or the parent and school agree to an alternate date and time. The student may attend the meeting with the parent's consent. The parent may elect to be accompanied by other individuals or representatives. The meeting must include employees who administered the physical restraint or seclusion, an administrator or employee who was not involved in the occurrence, the individual or administrator who approved continuation of the physical restraint or seclusion, other relevant personnel designated by the school (such as principal, counselor, classroom teacher, special education teacher), and, if indicated by the student's behavior in the instances prompting the debriefing, an expert in behavioral health, mental health, or another appropriate discipline. The meeting, and the debriefing report that is to be provided to the parent after the meeting, will include the following information and subjects:

(1) The date and location of the meeting, and the names and titles of the participants;

(2) The documentation and report completed in compliance with subrule 103.8(2);

(3) A review of the student's BIP, IHP, safety plan, and IEP as applicable;

(4) Identification of patterns of behavior and proportionate response, if any, in the student and the employees involved;

(5) Determination of possible alternative responses to the incident/less restrictive means, if any;

(6) Identification of additional resources that could facilitate those alternative responses in the future;

(7) Planning for follow-up actions, such as behavior assessments, revisions of school intervention plans, medical consultations, and reintroduction plans.

b. Schools must complete the debriefing report and provide a copy of the report to the parent of the student within three school days of the debriefing meeting. The parent may elect to receive the report via electronic mail, or facsimile, or by obtaining a copy at the school. If the parent does not provide instructions to the school or enter into an agreement with the school for alternate dates and methods of delivery, the school must mail the debriefing report to the parent by first-class mail, postage prepaid, postmarked no later than three school days after the debriefing meeting.

c. If the debriefing session results in a recommendation that a child might be eligible for a BIP, IHP, safety plan, or IEP, the public agencies will promptly determine the child's eligibility in accordance with the procedures for determining eligibility, including rules contained in 281—Chapter 14 and 281—Chapter 41, as applicable.

d. Any recommended change to a student's BIP, IHP, safety plan, or IEP, or a student's educational placement, will be made in accordance with the procedures for amending said plan or changing said placement, including rules contained in 281—Chapter 14 and 281—Chapter 41, as applicable.

e. Nothing in this subrule will be construed to require employers to include information about employees that would be legally protected personnel information, including employee disciplinary information under Iowa Code chapters 279 and 284, or to allow discussion of that personnel information, in debriefing meetings.

f. For purposes of this subrule, a debriefing session is necessary:

(1) Upon the first instance of seclusion or physical restraint during a school year;

(2) Whenever any personal injury occurs as a part of the use of seclusion or physical restraint;

(3) Whenever a reasonable educator would determine a debriefing session is necessary;

(4) Whenever suggested by a student's IEP team (if any);

(5) Whenever agreed by the parent and the school officials.

However, in any case a debriefing session will occur after seven instances of seclusion or physical restraint. Nothing in this paragraph will be construed to prevent a school from offering more debriefing meetings.

103.8(4) *Confidentiality.* Schools are governed by the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. §1232g; 34 CFR Part 99, both as effective on February 7, 2024); Iowa Code chapter 22, "Examination of Public Records (Open Records)"; and other applicable federal and state laws, when taking action pursuant to this rule.

103.8(5) *Reporting to department.* Schools will report to the Iowa department of education, in a manner prescribed by the department, an annual count of all instances of seclusion or restraint, an annual count of the number of students who were subjected to seclusion or restraint, and any other data required for the department to implement the Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act, Public Law 114-95, as of February 7, 2024.

[**ARC 7804C**, IAB 4/17/24, effective 5/22/24]

281—103.9(256B,280) Seclusion room requirements. Schools must meet the following standards for the structural and physical requirements for rooms used for seclusion:

103.9(1) The room meets and complies with all applicable building, fire, safety, and health codes and standards and with the other provisions of this rule.

103.9(2) The dimensions of the room are of adequate width, length, and height to allow the student to move about and recline safely and comfortably, considering the age, size, and physical and mental condition of the student being secluded. The interior of the room is to be no less than 56 square feet, and the distance between opposing walls is to be no less than 7 feet across.

103.9(3) The room is not isolated from school employees or the facility.

103.9(4) Any wall that is part of the room is part of the structural integrity of the room (not free-standing cells or portable units attached to the existing wall or floor).

103.9(5) The room provides a means of continuous visual and auditory monitoring of the student.

103.9(6) The room is adequately lighted with switches to control lighting located outside the room.

103.9(7) The room is adequately ventilated with switches to control fans or other ventilation devices located outside the room.

103.9(8) The room maintains a temperature within the normal human comfort range and consistent with the rest of the building with temperature controls located outside of the room.

103.9(9) The room is clean and free of objects and fixtures that could be potentially dangerous to a student, including protruding, exposed, or sharp objects, exposed pipes, electrical wiring, or other objects in the room that could be used by students to harm themselves or to climb up a wall.

103.9(10) The room contains no free-standing furniture.

103.9(11) The room is constructed of materials safe for its intended use, including wall and floor coverings designed to prevent injury to the student. Interior finish of the seclusion room will comply with the state and local building and fire codes and standards.

103.9(12) Doors will open outward. The door will not be fitted with a lock unless it releases automatically when not physically held in the locked position by personnel on the outside of the door and permits the door to be opened from the inside. Doors, when fully open, do not reduce the required corridor width by more than seven inches. Doors in any position do not reduce the required width by more than one-half.

103.9(13) The room is able to be opened from the inside immediately upon the release of a security mechanism held in place by constant human contact.

103.9(14) Windows, if any, are transparent and made of unbreakable or shatterproof glass or plastic.

103.9(15) By July 1, 2021, schools will consult with appropriate state and local building, fire, safety, and health officials to ensure the room complies with all applicable codes and standards (for example, heating, ventilation, lighting, accessibility, dimensions, access, entry and exit, fire suppression, etc.), and maintain documentation of such consultation and compliance and approval.

103.9(16) Assuming approval pursuant to subrule 103.9(15), a school may continue to use a room that otherwise complies with this rule but for subrule 103.9(2) for a period of five years from January 20, 2021, or whenever the portion of the school containing the room is renovated or remodeled, whichever occurs first.

[**ARC 7804C**, IAB 4/17/24, effective 5/22/24]

281—103.10(256B,280) Department responsibilities. The department will develop, establish, and distribute to all school districts evidence-based standards, guidelines, and expectations for the appropriate and inappropriate responses to behavior in the classroom that presents an imminent threat of bodily injury to a student or another person and for the reasonable, necessary, and appropriate physical restraint of a student, consistent with these rules.

The director of the department will consult with the area education agencies to create comprehensive and consistent standards and guidance for professional development relating to successfully educating individuals in the least restrictive environment, and for evidence-based interventions consistent with the standards established pursuant to this rule.

[**ARC 7804C**, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code section 280.21.

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[1] Effective date of 281—103.2(280), last 2 sentences, delayed until adjournment of the 1991 Session of the General Assembly by the Administrative Rules Review Committee at its November 13, 1990, meeting. The agency rescinded the last sentence, effective 11/6/91, IAB 10/2/91.

CHAPTERS 104 to 119
Reserved

TITLE XVIII
EARLY CHILDHOOD

CHAPTER 120
EARLY ACCESS INTEGRATED SYSTEM OF EARLY INTERVENTION SERVICES

Chapter rescission date pursuant to Iowa Code section 17A.7: 5/22/29

DIVISION I
PURPOSE AND APPLICABILITY

281—120.1(34CFR303) Purposes and outcomes of the Early ACCESS Integrated System of Early Intervention Services.

120.1(1) *Establishment of Early ACCESS Integrated System of Early Intervention Services.* This chapter establishes Iowa's Early ACCESS Integrated System of Early Intervention Services, which is Iowa's implementation of Part C of the Individuals with Disabilities Education Act.

120.1(2) *Purposes.* The purposes of this chapter are as follows:

a. Develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system that provides early intervention services for infants and toddlers with disabilities and their families;

b. Facilitate the coordination of payment for early intervention services from federal, state, local, and private sources (including public and private insurance coverage);

c. Enhance Iowa's capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families; and

d. Enhance the capacity of state and local agencies and service providers to identify, evaluate, and meet the needs of all children, including historically underrepresented populations, particularly minority, low-income, inner-city, and rural children, and infants and toddlers in foster care.

120.1(3) *Overall outcomes.* The overall intended outcome of Early ACCESS is to provide early intervention resources, supports, and services to eligible children and their families within a coordinated, integrated system. Early ACCESS is aimed at the following four outcomes:

a. Enhancing the development of eligible children;

b. Reducing educational costs to society by minimizing the need for special education and related services after such children reach school age;

c. Preparing eligible children for school entry; and

d. Enhancing the capacity of families to meet the unique needs of their eligible children.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.2(34CFR303) Applicability of this chapter. The provisions of this chapter apply to the Iowa department of education, as the state lead agency, the signatory agencies identified in subrule 120.39(15), and any early intervention service (EIS) provider that is part of the statewide system of early intervention, regardless of whether that EIS provider receives funds under Part C of the Act. The chapter applies to all children referred to the Part C program, including infants and toddlers with disabilities consistent with the definitions in rules 281—120.6(34CFR303) and 281—120.21(34CFR303), and their families. The provisions of this chapter do not apply to any child with a disability receiving a "free appropriate public education" or "FAPE" under 34 CFR Part 300.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.3(34CFR303) Applicable federal regulations.

120.3(1) *General.* The following regulations apply to this chapter:

a. The regulations at 34 CFR Part 303.

b. The Education Department General Administrative Regulations (EDGAR), including 34 CFR Parts 76 (except for §76.103), 77, 79, 80, 81, 82, 84, 85, and 86.

120.3(2) *References in EDGAR.* In applying EDGAR regulations cited in subrule 120.3(1), any reference to:

a. "State educational agency" means the Iowa department of education, the lead agency under this chapter; and

b. "Education records" or "records" means early intervention records.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

DIVISION II
DEFINITIONS

281—120.4(34CFR303) Act. "Act" means the Individuals with Disabilities Education Act. Part B of the Act, 34 CFR Part 300, establishes special education for children with disabilities who are age three to the maximum age in Iowa Code section 256B.8. Part B of the Act includes early childhood special education under Section 619 of the Act. Part C of the Act, 34 CFR Part 303, establishes the infants and toddlers program for eligible individuals from birth to age three.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.5(34CFR303) At-risk infant or toddler. "At-risk infant or toddler" means an individual under three years of age who would be at risk of experiencing a substantial developmental delay if early intervention services were not provided to the individual.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.6(34CFR303) Child. "Child" means an individual under the age of six and may include an "infant or toddler with a disability" as that term is defined in rule 281—120.21(34CFR303).

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.7(34CFR303) Consent.

120.7(1) *Obtaining consent.* "Consent" is obtained when all of the following conditions are satisfied:

a. The parent has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language as defined in rule 281—120.25(34CFR303);

b. The parent understands and agrees in writing to the carrying out of the activity for which the parent's consent is sought, and the consent form describes that activity and lists the early intervention records (if any) that will be released and to whom they will be released; and

c. The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.

120.7(2) *Revoking consent.* If a parent revokes consent, that revocation is not retroactive (i.e., it does not apply to an action that occurred before the consent was revoked).

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.8(34CFR303) Council. "Council" means the Iowa council for Early ACCESS, which is the state interagency coordinating council that satisfies Division VIII of this chapter.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.9(34CFR303) Day. "Day" means calendar day, unless otherwise indicated.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.10(34CFR303) Developmental delay. "Developmental delay," when used with respect to a child residing in a state, has the meaning given that term by the state under rule 281—120.111(34CFR303).

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.11(34CFR303) Early intervention service program. "Early intervention service program" or "EIS program" means an entity designated by the lead agency for reporting under rules 281—120.700(34CFR303) through 281—120.702(34CFR303).
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.12(34CFR303) Early intervention service provider.

120.12(1) *General.* "Early intervention service provider" or "EIS provider" means an entity (whether public, private, or nonprofit) or an individual that provides early intervention services under Part C of the Act, whether or not the entity or individual receives federal funds under Part C of the Act, and may include, where appropriate, the lead agency and a public agency responsible for providing early intervention services to infants and toddlers with disabilities in the state under Part C of the Act.

120.12(2) *Responsibilities.* An EIS provider is responsible for:

a. Participating in the multidisciplinary individualized family service plan (IFSP) team's ongoing assessment of an infant or toddler with a disability and a family-directed assessment of the resources, priorities, and concerns of the infant's or toddler's family, as related to the needs of the infant or toddler, in the development of integrated goals and outcomes for the IFSP;

b. Providing early intervention services in accordance with the IFSP of the infant or toddler with a disability; and

c. Consulting with and training parents and others regarding the provision of the early intervention services described in the IFSP of the infant or toddler with a disability.

120.12(3) *Rule of construction.* "Early ACCESS service provider" is a synonym for "early intervention service provider."
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.13(34CFR303) Early intervention services.

120.13(1) *General.* "Early intervention services" means developmental services that:

a. Are provided under public supervision;

b. Are selected in collaboration with the parents;

c. Are provided at no cost, except, subject to rules 281—120.520(34CFR303) and 281—120.521(34CFR303), where federal or state law provides for a system of payments by families, including, if applicable, a schedule of sliding fees;

d. Are designed to meet the developmental needs of an infant or toddler with a disability and the needs of the family to assist appropriately in the infant's or toddler's development, as identified by the IFSP team, in any one or more of the following areas, including:

(1) Physical development;

(2) Cognitive development;

(3) Communication development;

(4) Social or emotional development; or

(5) Adaptive development;

e. Meet the standards of the state in which the early intervention services are provided, including but not limited to the then-applicable version of Iowa's Early Learning Standards and Part C of the Act;

f. Include services identified under subrule 120.13(2);

g. Are provided by qualified personnel (as that term is defined in rule 281—120.31(34CFR303)), including the types of personnel listed in subrule 120.13(3);

h. To the maximum extent appropriate, are provided in natural environments, as defined in rule 281—120.26(34CFR303) and consistent with rule 281—120.126(34CFR303) and subrule 120.344(4); and

i. Are provided in conformity with an IFSP adopted in accordance with Section 636 of the Act and rule 281—120.20(34CFR303).

120.13(2) *Types of early intervention services.* Subject to subrule 120.13(4), early intervention services include the following services defined in this subrule:

a. "Assistive technology device" and "assistive technology service" are defined as follows:

(1) "Assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve

the functional capabilities of an infant or toddler with a disability. "Assistive technology device" does not include a medical device that is surgically implanted, including a cochlear implant, or the optimization (e.g., mapping), maintenance, or replacement of that device.

(2) "Assistive technology service" means any service that directly assists an infant or toddler with a disability in the selection, acquisition, or use of an assistive technology device. "Assistive technology service" includes:

1. The evaluation of the needs of an infant or toddler with a disability, including a functional evaluation of the infant or toddler with a disability in the child's customary environment;

2. Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by infants or toddlers with disabilities;

3. Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

4. Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

5. Training or technical assistance for an infant or toddler with a disability or, if appropriate, that child's family; and

6. Training or technical assistance for professionals (including individuals providing education or rehabilitation services) or other individuals who provide services to, or are otherwise substantially involved in the major life functions of, infants and toddlers with disabilities.

b. "Audiology services" includes:

(1) Identification of children with auditory impairments, using at-risk criteria and appropriate audiologic screening techniques;

(2) Determination of the range, nature, and degree of hearing loss and communication functions, by use of audiological evaluation procedures;

(3) Referral for medical and other services necessary for the habilitation or rehabilitation of an infant or toddler with a disability who has an auditory impairment;

(4) Provision of auditory training, aural rehabilitation, speech reading and listening devices, orientation and training, and other services;

(5) Provision of services for prevention of hearing loss; and

(6) Determination of the child's individual amplification, including selecting, fitting, and dispensing appropriate listening and vibrotactile devices, and evaluating the effectiveness of those devices.

c. "Family training, counseling, and home visits" means services provided, as appropriate, by social workers, psychologists, and other qualified personnel to assist the family of an infant or toddler with a disability in understanding the special needs of the child and enhancing the child's development.

d. "Health services" has the meaning given the term in rule 281—120.16(34CFR303).

e. "Medical services" means services provided by a licensed physician for diagnostic or evaluation purposes to determine a child's developmental status and need for early intervention services.

f. "Nursing services" includes:

(1) The assessment of health status for the purpose of providing nursing care, including the identification of patterns of human response to actual or potential health problems;

(2) The provision of nursing care to prevent health problems, restore or improve functioning, and promote optimal health and development; and

(3) The administration of medications, treatments, and regimens prescribed by a licensed physician.

g. "Nutrition services" includes:

(1) Conducting individual assessments in:

1. Nutritional history and dietary intake;

2. Anthropometric, biochemical, and clinical variables;

3. Feeding skills and feeding problems; and

4. Food habits and food preferences;

(2) Developing and monitoring appropriate plans to address the nutritional needs of children eligible under this chapter, based on the findings in subparagraph 120.13(2)*"g"*(1); and

(3) Making referrals to appropriate community resources to carry out nutrition goals.

h. "Occupational therapy" includes services to address the functional needs of an infant or toddler with a disability related to adaptive development, adaptive behavior, and play, and sensory, motor, and postural development. These services are designed to improve the child's functional ability to perform tasks in home, school, and community settings, and include:

(1) Identification, assessment, and intervention;

(2) Adaptation of the environment, and selection, design, and fabrication of assistive and orthotic devices to facilitate development and promote the acquisition of functional skills; and

(3) Prevention or minimization of the impact of initial or future impairment, delay in development, or loss of functional ability.

i. "Physical therapy" includes services to address the promotion of sensorimotor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status, and effective environmental adaptation. These services include:

(1) Screening, evaluation, and assessment of children to identify movement dysfunction;

(2) Obtaining, interpreting, and integrating information appropriate to program planning to prevent, alleviate, or compensate for movement dysfunction and related functional problems; and

(3) Providing individual and group services or treatment to prevent, alleviate, or compensate for movement dysfunction and related functional problems.

j. "Psychological services" includes:

(1) Administering psychological and developmental tests and other assessment procedures;

(2) Interpreting assessment results;

(3) Obtaining, integrating, and interpreting information about child behavior and child and family conditions related to learning, mental health, and development; and

(4) Planning and managing a program of psychological services, including psychological counseling for children and parents, family counseling, consultation on child development, parent training, and education programs.

k. "Service coordination services" has the meaning given the term in rule 281—120.34(34CFR303).

l. "Sign language and cued language services" includes teaching sign language, cued language, and auditory/oral language, providing oral transliteration services (such as amplification), and providing sign and cued language interpretation.

m. "Social work services" includes:

(1) Making home visits to evaluate a child's living conditions and patterns of parent-child interaction;

(2) Preparing a social or emotional developmental assessment of the infant or toddler within the family context;

(3) Providing individual and family-group counseling with parents and other family members, and appropriate social skill-building activities with the infant or toddler and parents;

(4) Working with those problems in the living situation (home, community, and any center where early intervention services are provided) of an infant or toddler with a disability and the family of that child that affect the child's maximum utilization of early intervention services; and

(5) Identifying, mobilizing, and coordinating community resources and services to enable the infant or toddler with a disability and the family to receive maximum benefit from early intervention services.

n. "Special instruction" includes:

(1) The design of learning environments and activities that promote the infant's or toddler's acquisition of skills in a variety of developmental areas, including cognitive processes and social interaction;

(2) Curriculum planning, including the planned interaction of personnel, materials, and time and space, that leads to achieving the outcomes in the IFSP for the infant or toddler with a disability;

(3) Providing families with information, skills, and support related to enhancing the skill development of the child; and

(4) Working with the infant or toddler with a disability to enhance the child's development.

o. "Speech-language pathology services" includes:

(1) Identification of children with communication or language disorders and delays in development of communication skills, including the diagnosis and appraisal of specific disorders and delays in those skills;

(2) Referral for medical or other professional services necessary for the habilitation or rehabilitation of children with communication or language disorders and delays in development of communication skills; and

(3) Provision of services for the habilitation, rehabilitation, or prevention of communication or language disorders and delays in development of communication skills.

p. "Transportation and related costs" includes the cost of travel and other costs that are necessary to enable an infant or toddler with a disability and the child's family to receive early intervention services.

q. "Vision services" means:

(1) Evaluation and assessment of visual functioning, including the diagnosis and appraisal of specific visual disorders, delays, and abilities that affect early childhood development;

(2) Referral for medical or other professional services necessary for the habilitation or rehabilitation of visual functioning disorders, or both; and

(3) Communication skills training, orientation and mobility training for all environments, visual training, and additional training necessary to activate visual motor abilities.

120.13(3) *Qualified personnel.* The following are the types of qualified personnel who provide early intervention services under this chapter:

a. Audiologists.
b. Family therapists.
c. Nurses.
d. Occupational therapists.
e. Orientation and mobility specialists.
f. Pediatricians and other physicians for diagnostic and evaluation purposes.
g. Physical therapists.
h. Psychologists.
i. Registered dieticians.
j. Social workers.
k. Special educators, including teachers of children who are deaf or hard of hearing and teachers of children with visual impairments (including blindness).
l. Speech and language pathologists.
m. Vision specialists, including ophthalmologists and optometrists.

120.13(4) *Other services.* The services and personnel identified and defined in subrules 120.13(2) and 120.13(3) do not comprise exhaustive lists of the types of services that may constitute early intervention services or the types of qualified personnel that may provide early intervention services. Nothing in rule 281—120.13(34CFR303) prohibits the identification in the IFSP of another type of service as an early intervention service provided that the service meets the criteria identified in subrule 120.13(1) or of another type of personnel that may provide early intervention services in accordance with this chapter, provided such personnel satisfy rule 281—120.31(34CFR303).

120.13(5) *Rule of construction.* "Early ACCESS services" is a synonym for the services described in this rule.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.14(34CFR303) Elementary school. "Elementary school" means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under state law.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.15(34CFR303) Free appropriate public education. "Free appropriate public education" or "FAPE," as used in rule 281—120.521(34CFR303), means special education and related services that are provided at public expense, under public supervision and direction, and without charge; that meet the standards of the state educational agency (SEA), including the requirements of Part B of the Act; that include an appropriate preschool, elementary school, or secondary school education in the state involved; and that are provided in conformity with an individualized education program (IEP) that satisfies 34 CFR 300.320 through 300.324.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.16(34CFR303) Health services.

120.16(1) *General.* "Health services" means services necessary to enable an otherwise eligible child to benefit from the other early intervention services under this chapter during the time that the child is eligible to receive early intervention services.

120.16(2) *Examples of health services.* "Health services" includes:

a. Such services as clean intermittent catheterization, tracheostomy care, tube feeding, the changing of dressings or colostomy collection bags, and other health services; and

b. Consultation by physicians with other service providers concerning the special health care needs of infants and toddlers with disabilities that will need to be addressed in the course of providing other early intervention services.

120.16(3) *Services excluded.* "Health services" does not include:

a. Services that are:

(1) Surgical in nature (such as cleft palate surgery, surgery for club foot, or the shunting of hydrocephalus);

(2) Purely medical in nature (such as hospitalization for management of congenital heart ailments, or the prescribing of medicine or drugs for any purpose); or

(3) Related to the implementation, optimization (e.g., mapping), maintenance, or replacement of a medical device that is surgically implanted, including a cochlear implant.

1. Nothing in this chapter limits the right of an infant or toddler with a disability with a surgically implanted device (e.g., cochlear implant) to receive the early intervention services that are identified in the child's IFSP as being needed to meet the child's developmental outcomes.

2. Nothing in this chapter prevents the EIS provider from routinely checking that either the hearing aid or the external components of a surgically implanted device (e.g., cochlear implant) of an infant or toddler with a disability are functioning properly;

b. Devices (such as heart monitors, respirators and oxygen, and gastrointestinal feeding tubes and pumps) necessary to control or treat a medical condition; and

c. Medical-health services (such as immunizations and regular "well-baby" care) that are routinely recommended for all children.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.17(34CFR303) Homeless children. "Homeless children" means children who meet the definition given the term "homeless children and youths" in Section 725 (42 U.S.C. 11434a) of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11431 et seq.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.18(34CFR303) Include; including. "Include" or "including" means that the items named are not all of the possible items that are covered, whether like or unlike the ones named.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.19(34CFR303) Indian; Indian tribe. "Indian" means an individual who is a member of an Indian tribe. "Indian tribe" means any federal or state Indian tribe, band, rancheria, pueblo, colony, community, or settlement, including any Alaska Native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 et seq.). Nothing in this definition is intended to indicate that the Secretary of the Interior is required to provide services or funding to a state Indian tribe that is not listed in the Federal Register list of Indian entities recognized as eligible to receive services from the United States, published pursuant to Section 104 of the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a-1.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.20(34CFR303) Individualized family service plan. "Individualized family service plan" or "IFSP" means a written plan for providing early intervention services to an infant or toddler with a disability under this chapter and the infant's or toddler's family that is based on the evaluation and

assessment described in rule 281—120.321(34CFR303); that includes the content specified in rule 281—120.344(34CFR303); that is implemented as soon as possible once parental consent for the early intervention services in the IFSP is obtained (consistent with rule 281—120.420(34CFR303)); and that is developed in accordance with the IFSP procedures in rules 281—120.342(34CFR303), 281—120.343(34CFR303), and 281—120.345(34CFR303).
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.21(34CFR303) Infant or toddler with a disability. "Infant or toddler with a disability" means an individual under three years of age who needs early intervention services because the individual:

120.21(1) Is experiencing a developmental delay, which is a 25 percent delay as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas:

a. Cognitive development;

b. Physical development, including vision and hearing;

c. Communication development;

d. Social or emotional development;

e. Adaptive development; or

120.21(2) Has a diagnosed physical or mental condition that:

a. Has a high probability of resulting in developmental delay; and

b. Includes conditions such as chromosomal abnormalities; genetic or congenital disorders; sensory impairments; inborn errors of metabolism; disorders reflecting disturbance of the development of the nervous system; congenital infections; severe attachment disorders; and disorders secondary to exposure to toxic substances, including fetal alcohol syndrome.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.22(34CFR303) Lead agency. "Lead agency" is the Iowa department of education to receive funds under Section 643 of the Act and to administer the state's responsibilities under Part C of the Act.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.23(34CFR303) Local educational agency.

120.23(1) *General.* "Local educational agency" or "LEA" means a public board of education or other public authority legally constituted within the state for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of the state, or for a combination of school districts or counties as are recognized in the state as an administrative agency for its public elementary schools or secondary schools.

120.23(2) *Educational service agencies and other public institutions or agencies.* "Educational service agencies and other public institutions or agencies" includes the following:

a. "Educational service agency," defined as a regional public multiservice agency:

(1) Authorized by state law to develop, manage, and provide services or programs to LEAs; and

(2) Recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary schools and secondary schools of the state.

b. Any other public institution or agency having administrative control and direction of a public elementary school or secondary school, including a public charter school that is established as an LEA under state law.

c. Entities that meet the definition of "intermediate educational unit" or "IEU" in Section 602(23) of the Act, as in effect prior to June 4, 1997. Under that definition, an "intermediate educational unit" or "IEU" means any public authority other than an LEA that:

(1) Is under the general supervision of the state educational agency;

(2) Is established by state law for the purpose of providing FAPE on a regional basis; and

(3) Provides special education and related services to children with disabilities within the state.

120.23(3) *BIE-funded schools.* "BIE-funded schools" includes an elementary school or secondary school funded by the Bureau of Indian Education, and not subject to the jurisdiction of any SEA other than the Bureau of Indian Education, but only to the extent that the inclusion makes the school eligible for

programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the LEA receiving assistance under the Act with the smallest student population.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.24(34CFR303) Multidisciplinary. "Multidisciplinary" means the involvement of two or more separate disciplines or professions and, with respect to:

1. Evaluation of the child in rule 281—120.113(34CFR303) and subrule 120.321(1) and assessments of the child and family in subrule 120.321(1), may include one individual who is qualified in more than one discipline or profession; and
2. The IFSP team in rule 281—120.340(34CFR303) must include the involvement of the parent and two or more individuals from separate disciplines or professions and one of these individuals must be the service coordinator (consistent with subrule 120.343(1)).

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.25(34CFR303) Native language.

120.25(1) *Limited English proficiency.* "Native language," when used with respect to an individual who is limited English proficient or LEP (as that term is defined in Section 602(18) of the Act and in rule 281—41.27(256B,34CFR300)), means:

a. The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child, except as provided in paragraph 120.25(1)*"b"*; and

b. For evaluations and assessments conducted pursuant to subrule 120.321(1), the language normally used by the child, if determined developmentally appropriate for the child by qualified personnel conducting the evaluation or assessment.

120.25(2) *Deaf or hard of hearing; blind or visually impaired; no written language.* "Native language," when used with respect to an individual who is deaf or hard of hearing, blind or visually impaired, or for an individual with no written language, means the mode of communication that is normally used by the individual (such as sign language, braille, or oral communication).
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.26(34CFR303) Natural environments. "Natural environments" means settings that are natural or typical for a same-aged infant or toddler without a disability, may include the home or community settings, and must be consistent with the provisions of rule 281—120.126(34CFR303).
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.27(34CFR303) Parent.

120.27(1) *General.* "Parent" means:

a. A biological or adoptive parent of a child;

b. A foster parent, unless state law, regulations, or contractual obligations with a state or local entity prohibit a foster parent from acting as a parent;

c. A guardian generally authorized to act as the child's parent, or authorized to make early intervention, educational, health or developmental decisions for the child (but not the state if the child is a ward of the state);

d. An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or

e. A surrogate parent who has been appointed in accordance with rule 281—120.422(34CFR303) or Section 639(a)(5) of the Act.

120.27(2) *Rules of construction and application.* The following rules are to be used to determine whether a party qualifies as a "parent."

a. Except as provided in paragraph 120.27(2)*"b,"* the biological or adoptive parent, when attempting to act as the parent under this chapter and when more than one party is qualified under subrule 120.27(1) to act as a parent, must be presumed to be the parent for purposes of rule 281—120.27(34CFR303) unless the

biological or adoptive parent does not have legal authority to make educational or early intervention services decisions for the child.

b. If a judicial decree or order identifies a specific person or persons under paragraphs 120.27(1)*"a"* through *"d"* to act as the "parent" of a child or to make educational or early intervention service decisions on behalf of a child, then the person or persons must be determined to be the "parent" for purposes of Part C of the Act, except that if an EIS provider or a public agency provides any services to a child or any family member of that child, that EIS provider or public agency may not act as the parent for that child.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.28(34CFR303) Parent training and information center. "Parent training and information center" means a center assisted under Section 671 or 672 of the Act.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.29(34CFR303) Personally identifiable information. "Personally identifiable information" means personally identifiable information as defined in 34 CFR 99.3, except that the term "student" in the definition of "personally identifiable information" in 34 CFR 99.3 means "child" as used in this chapter and any reference to "school" means "EIS provider" as used in this chapter.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.30(34CFR303) Public agency. As used in this chapter, "public agency" means the lead agency and any other agency or political subdivision of the state. The particular public agency serving each infant or toddler and that infant or toddler's family shall be determined by the particular Early ACCESS needs of each infant and toddler and pursuant to the interagency agreements established under this chapter. Disputes about which agency will serve a particular infant or toddler shall be resolved by the mechanisms that those agreements contain.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.31(34CFR303) Qualified personnel. "Qualified personnel" means personnel who have met state-approved or state-recognized certification, licensing, registration, or other comparable requirements that apply to the areas in which the individuals are conducting evaluations or assessments or providing early intervention services.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.32(34CFR303) Scientifically based research. "Scientifically based research" has the meaning given the term in Section 9101(37) of the Elementary and Secondary Education Act of 1965 (ESEA). In applying the ESEA to the regulations under Part C of the Act, any reference to "education activities and programs" refers to "early intervention services."

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.33(34CFR303) Secretary. "Secretary" means the Secretary of the United States Department of Education.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.34(34CFR303) Service coordination services (case management).

120.34(1) *General.*

a. As used in this chapter, "service coordination services" means services provided by a service coordinator to assist and enable an infant or toddler with a disability and the child's family to receive the services and rights, including procedural safeguards, required under this chapter.

b. Each infant or toddler with a disability and the child's family must be provided with one service coordinator who is responsible for:

(1) Coordinating all services required under this chapter across agency lines; and

(2) Serving as the single point of contact for carrying out the activities described in this subrule and subrule 120.34(2).

c. Service coordination is an active, ongoing process that involves:

(1) Assisting parents of infants and toddlers with disabilities in gaining access to, and coordinating the provision of, the early intervention services required under this chapter;

(2) Using family-centered practices in all contacts with families; and

(3) Coordinating the other services identified in the IFSP under subrule 120.344(5) that are needed by, or are being provided to, the infant or toddler with a disability and that child's family.

120.34(2) *Specific service coordination services.* Service coordination services include:

a. Explaining the system of services and resources called Early ACCESS;

b. Assisting parents of infants and toddlers with disabilities in obtaining access to needed early intervention services and other services identified in the IFSP, including making referrals to providers for needed services and scheduling appointments for infants and toddlers with disabilities and their families;

c. Coordinating the provision of early intervention services and other services (such as educational, social, and medical services that are not provided for diagnostic or evaluative purposes) that the child needs or is being provided;

d. Coordinating evaluations and assessments;

e. Facilitating and participating in the development, review, and evaluation of IFSPs;

f. Conducting referral and other activities to assist families in identifying available EIS providers;

g. Coordinating, facilitating, and monitoring the delivery of services required under this chapter to ensure that the services are provided in a timely manner;

h. Conducting follow-up activities to determine that appropriate Part C services are being provided;

i. Informing families of their rights and procedural safeguards, as set forth in Division VI of this chapter and related resources;

j. Coordinating the funding sources for services required under this chapter; and

k. Facilitating the development of a transition plan to preschool, school, or, if appropriate, to other services.

120.34(3) *Use of the term "service coordination" or "service coordination services."* The lead agency's or an EIS provider's use of the term "service coordination" or "service coordination services" does not preclude characterization of the services as case management or any other service that is covered by another payor of last resort (including Title XIX of the Social Security Act—Medicaid), for purposes of claims in compliance with rules 281—120.501(34CFR303) through 281—120.521(34CFR303) (payor of last resort provisions).

120.34(4) *Appointment of service coordinator.* A service coordinator shall be appointed to families as soon as possible after a referral is received. Continuity of services for the child and the child's family shall be a consideration in the determination of whether a change is made in the service coordinator at any time following initial appointment.

120.34(5) *Required service coordinator qualifications.* In addition to satisfying subrule 120.119(1), a service coordinator must be a person who has completed a competency-based training program with content related to knowledge and understanding of eligible children, these rules, the nature and scope of services in Early ACCESS in the state, and the system of payments for services, as well as service coordination responsibilities and strategies. The competency-based training program, approved by the department, shall include different training formats and differentiated training to reflect the background and knowledge of the trainees, including those persons who are state-licensed professionals whose scope of practice includes service coordination. The department or its designee shall determine whether service coordinators have successfully completed the training.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.35(34CFR303) State. "State" means each of the 50 states, the Commonwealth of Puerto Rico, the District of Columbia, and the four outlying areas and jurisdictions of Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.36(34CFR303) State educational agency. "State educational agency" or "SEA" means the state board of education or other agency or officer primarily responsible for the state supervision of public elementary schools and secondary schools or, if there is no such officer or agency, an officer or agency

designated by the governor or by state law. "State educational agency" includes the agency that receives funds under Sections 611 and 619 of the Act to administer the state's responsibilities under Part B of the Act. In Iowa, the SEA is the Iowa department of education.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.37(34CFR303) Ward of the state.

120.37(1) *General.* Subject to subrules 120.37(2) and 120.37(3), "ward of the state" means a child who, as determined by the state where the child resides, is:

a. A foster child;

b. A ward of the state; or

c. In the custody of a public child welfare agency.

120.37(2) *Exception.* "Ward of the state" does not include a foster child who has a foster parent who meets the definition of "parent" in rule 281—120.27(34CFR303).

120.37(3) *Interpretive note.* "Ward of the state" is a term rarely used in Iowa law. It would be an extremely rare occurrence for a child to be a ward of the state while not being either a foster child or in the custody of a public child welfare agency.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.38(34CFR303) Other definitions used in this chapter. The following terms apply to this chapter:

120.38(1) *Area education agency.* "Area education agency" or "AEA" is a political subdivision of the state organized pursuant to Iowa Code chapter 273.

120.38(2) *Board.* "Board" means the Iowa state board of education.

120.38(3) *Community partners.* "Community partners" means local providers of signatory agencies, as well as other public or private community programs or agencies, including Early Head Start, child care providers, early childhood Iowa areas, and health programs, that work with Early ACCESS, as described in rule 281—120.803(34CFR303).

120.38(4) *Department.* "Department" means the Iowa department of education.

120.38(5) *Director of education.* "Director of education" means the director of the Iowa department of education.

120.38(6) *Early childhood Iowa area.* "Early childhood Iowa area" means a partnership in a local community with broad representation to lead collaborative efforts involving education, health, and human services programs and services on behalf of children, families and other citizens residing in the local community's geographic area. An early childhood Iowa area mobilizes individuals and their communities to achieve desired results in order to improve the well-being and quality of life for families with young children from birth through the age of five years.

120.38(7) *Early childhood special education.* "Early childhood special education" or "ECSE" means special education and related services under Part B of the Act for those individuals with disabilities younger than the age of six.

120.38(8) *Eligible child.* "Eligible child" is a synonym for "infant or toddler with a disability," as defined in rule 281—120.21(34CFR303).

120.38(9) *Family.* "Family" means the persons who are primarily responsible for the care and nurturing in a child's daily life, including biological or adoptive parents, grandparents, guardians, persons acting as parents, siblings, stepparents, or unmarried partners of parents.

120.38(10) *GEPA.* "GEPA" is an acronym for the General Education Provisions Act.

120.38(11) *Grantee.* "Grantee" means a recipient of funds under Part C of the Act or state funds designated for Early ACCESS that has the fiscal and legal obligation to ensure that the Early ACCESS system is implemented regionally. The term "grantee" shall not be construed in a manner that conflicts with the Act.

120.38(12) *Individualized family service plan team.* "Individualized family service plan team" or "IFSP team" includes the members described in subrule 120.343(1).

120.38(13) *Informed clinical opinion.* "Informed clinical opinion" means the integration of the results of evaluations, direct observations in various settings, and varied activities with the experience, knowledge, and skills of qualified personnel.

120.38(14) *School year.* "School year" means the period during which students who are 3 years of age through 21 years of age attend school.

120.38(15) *Signatory agency.* "Signatory agency" means the department of education, the department of health and human services, and the child health specialty clinics.

120.38(16) *Signature.* "Signature" has the meaning given the term in Iowa Code section 4.1(39).

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.39 to **120.100** Reserved.

DIVISION III
STATE ELIGIBILITY FOR A GRANT AND REQUIREMENTS
FOR A STATEWIDE SYSTEM: GENERAL AUTHORITY AND ELIGIBILITY

281—120.101(34CFR303) State eligibility—requirements for a grant under Part C of the Act. In order to be eligible for a grant under Part C of the Act for any fiscal year, the state must meet the following conditions:

120.101(1) *Assurances regarding early intervention services and a statewide system.* The state must provide the following assurances to the Secretary that:

a. The state has adopted a policy that appropriate early intervention services, as defined in rule 281—120.13(34CFR303), are available to all infants and toddlers with disabilities in the state and their families, including:

(1) Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the state;

(2) Infants and toddlers with disabilities who are homeless children and their families; and

(3) Infants and toddlers with disabilities who are wards of the state; and

b. The state has in effect a statewide system of early intervention services that satisfies Section 635 of the Act, including policies and procedures that address, at a minimum, the components required in rules 281—120.111(34CFR303) through 281—120.126(34CFR303).

120.101(2) *State application and assurances.* The state must provide information and assurances to the Secretary, in accordance with 34 CFR §303.200 through 34 CFR §303.236, including:

a. Information that shows that the state meets the application requirements in rules 281—120.200(34CFR303) through 281—120.212(34CFR303); and

b. Assurances that the state also satisfies rules 281—120.221(34CFR303) through 281—120.227(34CFR303).

120.101(3) *Approval before implementation.* The state must obtain approval by the Secretary before implementing any policy or procedure required to be submitted as part of the state's application in 34 CFR §303.203, 303.204, 303.206, 303.207, 303.208, 303.209, and 303.211.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.102(34CFR303) State conformity with Part C of the Act. Each state that receives funds under Part C of the Act must ensure that any state rules, regulations, and policies relating to this chapter conform to the purposes and requirements of 34 CFR Part 303.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.103 and **120.104** Reserved.

281—120.105(34CFR303) Positive efforts to employ and advance qualified individuals with disabilities. Each recipient of assistance under Part C of the Act must make positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted under Part C of the Act.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.106 to **120.109** Reserved.

281—120.110(34CFR303) Minimum components of a statewide system. Each statewide system (system) must include, at a minimum, the components described in rules 281—120.111(34CFR303) through 281—120.126(34CFR303).
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.111(34CFR303) State definition of developmental delay. The system must include the state's rigorous definition of developmental delay, consistent with rule 281—120.10(34CFR303) and subrule 120.203(3), that will be used by the state in carrying out programs under Part C of the Act in order to appropriately identify infants and toddlers with disabilities who are in need of services under Part C of the Act. The definition must:

120.111(1) Describe, for each of the areas listed in subrule 120.21(1), the evaluation and assessment procedures, consistent with rule 281—120.321(34CFR303), that will be used to measure a child's development; and

120.111(2) Specify that 25 percent is the applicable level of developmental delay in functioning or other comparable criteria to constitute a developmental delay in one or more of the developmental areas identified in subrule 120.21(1).
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.112(34CFR303) Availability of early intervention services. Each system must include a state policy that is in effect and that ensures that appropriate early intervention services are based on scientifically based research, to the extent practicable, and are available to all infants and toddlers with disabilities and their families, including:

120.112(1) Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the state; and

120.112(2) Infants and toddlers with disabilities who are homeless children and their families.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.113(34CFR303) Evaluation, assessment, and nondiscriminatory procedures.

120.113(1) *General.* Subject to subrule 120.113(2), each system must ensure the performance of the following:

a. A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant or toddler with a disability in the state; and

b. A family-directed identification of the needs of the family of the infant or toddler to assist appropriately in the development of the infant or toddler.

120.113(2) *Rule of construction.* The evaluation and family-directed identification required in subrule 120.113(1) must satisfy rule 281—120.321(34CFR303).
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.114(34CFR303) Individualized family service plan (IFSP). Each system must ensure, for each infant or toddler with a disability and the infant's or toddler's family in the state, that an IFSP, as defined in rule 281—120.20(34CFR303), is developed and implemented that satisfies rules 281—120.340(34CFR303) through 281—120.345(34CFR303), and that includes service coordination services, as defined in rule 281—120.34(34CFR303).
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.115(34CFR303) Comprehensive child find system. Each system must include a comprehensive child find system that satisfies rules 281—120.302(34CFR303) and 281—120.303(34CFR303).
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.116(34CFR303) Public awareness program. Each system must include a public awareness program that focuses on the early identification of infants and toddlers with disabilities; and provides

information to parents of infants and toddlers through primary referral sources in accordance with rule 281—120.301(34CFR303).
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.117(34CFR303) Central directory. Each system must include a central directory that is accessible to the general public (i.e., through the department's website and other appropriate means) and includes accurate, up-to-date information about:

120.117(1) Public and private early intervention services, resources, and experts available in the state;

120.117(2) Professional and other groups (including parent support, and training and information centers, such as those funded under the Act) that provide assistance to infants and toddlers with disabilities eligible under Part C of the Act and their families; and

120.117(3) Research and demonstration projects being conducted in the state relating to infants and toddlers with disabilities.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.118(34CFR303) Comprehensive system of personnel development (CSPD). Each system must include a comprehensive system of personnel development (CSPD), including the training of paraprofessionals and the training of primary referral sources with respect to the basic components of early intervention services available in the state.

120.118(1) *Required elements.* A CSPD must include:

a. Training personnel to implement innovative strategies and activities for the recruitment and retention of EIS providers;

b. Promoting the preparation of EIS providers who are fully and appropriately qualified to provide early intervention services under this chapter; and

c. Training personnel to coordinate transition services for infants and toddlers with disabilities who are transitioning from an early intervention service program under Part C of the Act to a preschool program under Section 619 of the Act, Head Start, Early Head Start, an elementary school program under Part B of the Act, or another appropriate program.

120.118(2) *Optional elements.* A CSPD may include:

a. Training personnel to work in rural and inner-city areas;

b. Training personnel in the emotional and social development of young children;

c. Training personnel to support families in participating fully in the development and implementation of the child's IFSP; and

d. Training personnel who provide services under this chapter using standards that are consistent with early learning personnel development standards funded under the state advisory council on early childhood education and care established under the Head Start Act, if applicable.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.119(34CFR303) Personnel standards.

120.119(1) *General.* Each system must include policies and procedures relating to the establishment and maintenance of qualification standards to ensure that personnel necessary to carry out the purposes of this chapter are appropriately and adequately prepared and trained.

120.119(2) *Qualification standards.* The policies and procedures required in subrule 120.119(1) must provide for the establishment and maintenance of qualification standards that are consistent with any state-approved or state-recognized certification, licensing, registration, or other comparable requirements that apply to the profession, discipline, or area in which personnel are providing early intervention services.

120.119(3) *Use of paraprofessionals and assistants.* Nothing in Part C of the Act may be construed to prohibit the use of paraprofessionals and assistants who are appropriately trained and supervised in accordance with state law, regulation, or written policy to assist in the provision of early intervention services under Part C of the Act to infants and toddlers with disabilities.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.120(34CFR303) Lead agency role in supervision, monitoring, funding, interagency coordination, and other responsibilities. Iowa's system includes the designation of the Iowa department of education as lead agency, with a single line of responsibility for the following items:

120.120(1) *General supervision.* The department is responsible for the following:

a. The general administration and supervision of programs and activities administered by agencies, institutions, organizations, and EIS providers receiving assistance under Part C of the Act.

b. The monitoring of programs and activities used by the state to carry out Part C of the Act (whether or not the programs or activities are administered by agencies, institutions, organizations, and EIS providers that are receiving assistance under Part C of the Act) to ensure that the state complies with Part C of the Act, including:

(1) Monitoring agencies, institutions, organizations, and EIS providers used by the state to carry out Part C of the Act;

(2) Enforcing any obligations imposed on those agencies, institutions, organizations, and EIS providers under Part C of the Act and these rules;

(3) Providing technical assistance, if necessary, to those agencies, institutions, organizations, and EIS providers;

(4) Correcting any noncompliance identified through monitoring as soon as possible and in no case later than one year after the lead agency's identification of the noncompliance; and

(5) Conducting the activities in subparagraphs 120.120(1)*"a"*(1) through (4), consistent with rules 281—120.700(34CFR303) through 281—120.707(34CFR303), and any other activities required by the state under those rules.

120.120(2) *Identification and coordination of resources.* The identification and coordination of all available resources for early intervention services within the state, including those from federal, state, local, and private sources, consistent with rules 281—120.500(34CFR303) through 281—120.521(34CFR303).

120.120(3) *Assignment of financial responsibility.* The assignment of financial responsibility in accordance with rules 281—120.500(34CFR303) through 281—120.521(34CFR303).

120.120(4) *Procedures concerning timely provision of services.* The development of procedures in accordance with rules 281—120.500(34CFR303) through 281—120.521(34CFR303) to ensure that early intervention services are provided to infants and toddlers with disabilities and their families under Part C of the Act in a timely manner, pending the resolution of any disputes among public agencies or EIS providers.

120.120(5) *Agency-level dispute resolution.* The resolution of intra-agency and interagency disputes in accordance with rules 281—120.500(34CFR303) through 281—120.521(34CFR303).

120.120(6) *Methods of establishing financial responsibility.* The entry into formal interagency agreements or other written methods of establishing financial responsibility, consistent with rule 281—120.511(34CFR303), that define the financial responsibility of each agency for paying for early intervention services (consistent with state law) and procedures for resolving disputes and that include all additional components necessary to ensure meaningful cooperation and coordination as set forth in rules 281—120.500(34CFR303) through 281—120.521(34CFR303).

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.121(34CFR303) Policy for contracting or otherwise arranging for services. Each system must include a policy pertaining to the contracting or making of other arrangements with public or private individuals or agency service providers to provide early intervention services in the state, consistent with the provisions of Part C of the Act, including the contents of the application, and the conditions of the contract or other arrangements. The policy must:

1. Include a requirement that all early intervention services must meet state standards and be consistent with the provisions of this chapter; and

2. Be consistent with the Education Department General Administrative Regulations in 34 CFR Part 80.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.122(34CFR303) Reimbursement procedures. Each system must include procedures for securing the timely reimbursement of funds used under Part C of the Act, in accordance with rules 281—120.500(34CFR303) through 281—120.521(34CFR303).
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.123(34CFR303) Procedural safeguards. Each system must include procedural safeguards that satisfy rules 281—120.400(34CFR303) through 281—120.449(34CFR303).
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.124(34CFR303) Data collection.

120.124(1) *General.* Each statewide system must include a system for compiling and reporting timely and accurate data that satisfies subrule 120.124(2) and rules 281—120.700(34CFR303) through 281—120.702(34CFR303) and rules 281—120.720(34CFR303) through 281—120.724(34CFR303).

120.124(2) *Required description.* The data system required in subrule 120.124(1) must include a description of the process that the state uses, or will use, to compile data on infants or toddlers with disabilities receiving early intervention services under this chapter, including a description of the state's sampling methods, if sampling is used, for reporting the data required by the Secretary under Sections 616 and 618 of the Act and rules 281—120.700(34CFR303) through 281—120.707(34CFR303) and rules 281—120.720(34CFR303) through 281—120.724(34CFR303).
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.125(34CFR303) State interagency coordinating council. Each system must include a state interagency coordinating council satisfying rules 281—120.600(34CFR303) through 281—120.605(34CFR303).
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.126(34CFR303) Early intervention services in natural environments. Each system must include policies and procedures to ensure, consistent with rule 281—120.13(34CFR303) (early intervention services), rule 281—120.26(34CFR303) (natural environments), and subrule 120.344(4) (content of an IFSP), that early intervention services for infants and toddlers with disabilities are provided:

1. To the maximum extent appropriate, in natural environments; and
2. In settings other than the natural environment that are most appropriate, as determined by the parent and the IFSP team, only when early intervention services cannot be achieved satisfactorily in a natural environment.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.127 to **120.200** Reserved.

DIVISION IV
STATE APPLICATION AND ASSURANCES

281—120.201(34CFR303) Designation of lead agency. Each application must include the designation of the department as the lead agency that will be responsible for the administration of funds provided under Part C of the Act.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.202(34CFR303) Certification regarding financial responsibility. Each application must include a certification to the Secretary that the arrangements to establish financial responsibility for the provision of Part C services among appropriate public agencies under rule 281—120.511(34CFR303) and the lead agency's contracts with EIS providers regarding financial responsibility for the provision of Part C services both satisfy rules 281—120.500(34CFR303) through 281—120.521(34CFR303) and are current as of the date of submission of the certification.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.203(34CFR303) Statewide system and description of services. Each application must include the following items:

120.203(1) *Description of services.* A description of services to be provided under this chapter to infants and toddlers with disabilities and their families through the state's system;

120.203(2) *Identification and coordination of resources.* The state's policies and procedures regarding the identification and coordination of all available resources within the state from federal, state, local, and private sources as required under Division VII of this chapter and including:

a. Policies or procedures adopted by the state as its system of payments that satisfy rules 281—120.510(34CFR303), 281—120.520(34CFR303), and 281—120.521(34CFR303); and

b. Methods used by the state to implement subrule 120.511(2); and

120.203(3) *Rigorous definition of developmental delay.* The state's rigorous definition of developmental delay, under rule 281—120.111(34CFR303).

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.204 Reserved.

281—120.205(34CFR303) Description of use of funds.

120.205(1) *General.* Each application must include a description of the uses for funds under this chapter for the fiscal year or years covered by the application. The description must be presented separately for the lead agency and the council and include the information required in subrules 120.205(2) through 120.205(5).

120.205(2) Reserved.

120.205(3) *Maintenance and implementation activities.* Each application must include a description of the nature and scope of each major activity to be carried out under Part C of the Act, consistent with rule 281—120.501(34CFR303), and the approximate amount of funds to be spent for each activity.

120.205(4) *Direct services.* Each application must include a description of any direct services that the state expects to provide to infants and toddlers with disabilities and their families with funds under this chapter, consistent with rule 281—120.501(34CFR303), and the approximate amount of funds under this chapter to be used for the provision of each direct service.

120.205(5) *Activities by other public agencies.* If other public agencies are to receive funds under Part C of the Act, the application must include the name of each agency expected to receive funds, the approximate amount of funds each agency will receive, and a summary of the purposes for which the funds will be used.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.206(34CFR303) Referral policies for specific children. Each application must include the state's policies and procedures that require the referral for early intervention services under this chapter of specific children under the age of three, as described in subrule 120.303(2).

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.207(34CFR303) Availability of resources. Each application must include a description of the procedure used by the state to ensure that resources are made available under this chapter for all geographic areas within the state.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.208(34CFR303) Public participation policies and procedures.

120.208(1) *Application.* At least 60 days prior to being submitted to the department, each application for funds (including any policies, procedures, descriptions, methods, certifications, assurances and other information required in the application) must be published in a manner that will ensure circulation throughout the state for at least a 60-day period, with an opportunity for public comment on the application for at least 30 days during that period.

120.208(2) *State policies and procedures.* Each application must include a description of the policies and procedures used by the state to ensure that, before adopting any new policy or procedure (including any

revision to an existing policy or procedure) needed to comply with Part C of the Act and these rules, the lead agency:

a. Holds public hearings on the new policy or procedure (including any revision to an existing policy or procedure);

b. Provides notice of the hearings held in accordance with paragraph 120.208(2)*"a"* at least 30 days before the hearings are conducted to enable public participation; and

c. Provides an opportunity for the general public, including individuals with disabilities, parents of infants and toddlers with disabilities, EIS providers, and the members of the council, to comment for at least 30 days on the new policy or procedure (including any revision to an existing policy or procedure) needed to comply with Part C of the Act and these rules.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.209(34CFR303) Transition to preschool and other programs.

120.209(1) *Application requirements.* The department must include the following in its application:

a. A description of the policies and procedures the state will use to ensure a smooth transition for infants and toddlers with disabilities under the age of three and their families from receiving early intervention services under this chapter to:

(1) Preschool or other appropriate services (for toddlers with disabilities); or

(2) Exiting the program for infants and toddlers with disabilities.

b. A description of how the state will satisfy subrules 120.209(2) through 120.209(6).

c. An intra-agency agreement between the department's program that administers Part C of the Act and the department's program that administers Section 619 of Part B of the Act (early childhood special education). To ensure a seamless transition between services under Parts C and B of the Act, the intra-agency agreement must address how the department will satisfy subrules 120.209(2) through 120.209(6) (including any policies adopted by the lead agency under 34 CFR §303.401(d) and (e)), subrule 120.344(8), rule 281—41.124(256B,34CFR300), and 281—subrules 41.101(2) and 41.321(6).

d. Any policy the department has adopted under 34 CFR §303.401(d) and (e).

120.209(2) *Notification to the department and appropriate AEA.*

a. The department must ensure that:

(1) Subject to paragraph 120.209(2)*"b,"* not fewer than 90 days before the third birthday of the toddler with a disability if that toddler may be eligible for preschool services under Part B of the Act, the public agency responsible for providing Early ACCESS services to the toddler notifies the department and the AEA for the area in which the toddler resides that the toddler on the toddler's third birthday will reach the age of eligibility for services under Part B of the Act, as determined in accordance with state law;

(2) Subject to paragraph 120.209(2)*"b,"* if the toddler is determined to be eligible for Early ACCESS services more than 45 but less than 90 days before that toddler's third birthday and if that toddler may be eligible for preschool services under Part B of the Act, the public agency responsible for providing Early ACCESS services to the toddler, as soon as possible after determining the child's eligibility, notifies the department and the AEA for the area in which the toddler with a disability resides that the toddler on the toddler's third birthday will reach the age of eligibility for services under Part B of the Act, as determined in accordance with state law; or

(3) Subject to paragraph 120.209(2)*"b,"* if a toddler is referred to Early ACCESS under rules 281—120.302(34CFR303) and 281—120.303(34CFR303) fewer than 45 days before that toddler's third birthday and that toddler may be eligible for preschool services under Part B of the Act, the public agency that would be responsible for determining the child's eligibility under this chapter, with parental consent required under rule 281—120.414(34CFR303), refers the toddler to the department and the AEA for the area in which the toddler resides; however, no agency is required to conduct an evaluation, assessment, or an initial IFSP meeting under these circumstances.

b. The department must ensure that the notification required under subparagraphs 120.209(2)*"a"*(1) and (2) is consistent with any policy that the state has adopted, under 34 CFR §303.401(e), permitting a parent to object to disclosure of personally identifiable information.

120.209(3) *Conference to discuss services.* The department must ensure that:

a. If a toddler with a disability may be eligible for preschool services under Part B of the Act, the public agency responsible for Early ACCESS services, with the approval of the family of the toddler, convenes a conference, among that agency, the family, and the AEA of the toddler's residence not fewer than 90 days—and, at the discretion of all parties, not more than nine months—before the toddler's third birthday to discuss any services the toddler may receive under Part B of the Act; and

b. If the public agency determines that a toddler with a disability is not potentially eligible for preschool services under Part B of the Act, the public agency, with the approval of the family of that toddler, makes reasonable efforts to convene a conference among that agency, the family, and providers of other appropriate services for the toddler to discuss appropriate services that the toddler may receive.

120.209(4) *Transition plan.* The department must ensure that for all toddlers with disabilities:

a. The appropriate public agency reviews the program options for the toddler with a disability for the period from the toddler's third birthday through the remainder of the school year and each family of a toddler with a disability who is served under this chapter is included in the development of the transition plan required under this rule and subrule 120.344(8);

b. The appropriate public agency establishes a transition plan in the IFSP not fewer than 90 days—and, at the discretion of all parties, not more than nine months—before the toddler's third birthday; and

c. The transition plan in the IFSP includes, consistent with subrule 120.344(8), as appropriate:

(1) Steps for the toddler with a disability and the toddler's family to exit from the Part C program; and

(2) Any transition services that the IFSP team identifies as needed by that toddler and the toddler's family.

120.209(5) *Transition conference and meeting to develop transition plan.* Any conference conducted under subrule 120.209(3) or meeting to develop the transition plan under subrule 120.209(4) (which conference and meeting may be combined into one meeting) must satisfy subrules 120.342(4), 120.342(5), and 120.343(1).

120.209(6) *Applicability of transition requirements.* The transition requirements in subparagraphs 120.209(2)*"a"*(1) and (2), paragraph 120.209(3)*"a,"* and subrule 120.209(4) apply to all toddlers with disabilities receiving services under this chapter before those toddlers turn age three.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.210(34CFR303) Coordination with Head Start and Early Head Start, early education, and child care programs. Each application must contain a description of state efforts to promote collaboration among Head Start and Early Head Start programs under the Head Start Act (42 U.S.C. 9801 et seq.), early education and child care programs, and services under this chapter. The department must participate, consistent with Section 642B(b)(1)(C)(viii) of the Head Start Act, on the state advisory council on early childhood education and care established under the Head Start Act.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.211 Reserved.

281—120.212(34CFR303) Additional information and assurances. The department's application shall describe the steps the state is taking to ensure equitable access to, and equitable participation in, the Part C statewide system as required by Section 427(b) of GEPA and shall supply other information and assurances as the Secretary may reasonably require.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.213 to **120.219** Reserved.

281—120.220(34CFR303) Assurances satisfactory to the Secretary. The department's application must contain assurances satisfactory to the Secretary that the state has satisfied rules 281—120.221(34CFR303) through 281—120.227(34CFR303).

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.221(34CFR303) Expenditure of funds. The department must ensure that federal funds made available to the state under Section 643 of the Act will be expended in accordance with the provisions of this chapter, including rules 281—120.500(34CFR303) and 281—120.501(34CFR303).
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.222(34CFR303) Payor of last resort. The department must ensure that it will comply with rules 281—120.510(34CFR303) and 281—120.511(34CFR303).
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.223(34CFR303) Control of funds and property. The department must ensure that the control of funds provided under Part C of the Act, and title to property acquired with those funds, will be in a public agency for the uses and purposes provided in this chapter and that a public agency will administer the funds and property.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.224(34CFR303) Reports and records. The department must ensure that it will make reports in the form and containing the information that the Secretary may require and will keep records and afford access to those records as the Secretary may find necessary to ensure compliance with this chapter, the correctness and verification of reports, and the proper disbursement of funds provided under this chapter.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.225(34CFR303) Prohibition against supplanting; indirect costs.

120.225(1) *General.* The department must provide satisfactory assurance that the federal funds made available under Section 643 of the Act to the state:

a. Will not be commingled with state funds; and

b. Will be used so as to supplement the level of state and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant those state and local funds.

120.225(2) *Additional information.* To meet the requirement in subrule 120.225(1), the total amount of state and local funds budgeted for expenditures in the current fiscal year for early intervention services for children eligible under this chapter and their families must be at least equal to the total amount of state and local funds actually expended for early intervention services for these children and their families in the most recent preceding fiscal year for which the information is available. Allowance may be made for:

a. A decrease in the number of infants and toddlers who are eligible to receive early intervention services under this chapter; and

b. Unusually large amounts of funds expended for such long-term purposes as the acquisition of equipment.

120.225(3) *Requirement regarding indirect costs.*

a. Except as provided in paragraph 120.225(3)*"b,"* the department may not charge indirect costs to its Part C grant.

b. If approved by the department's cognizant federal agency or by the Secretary, the department must charge indirect costs through either:

(1) A restricted indirect cost rate that satisfies 34 CFR 76.560 through 76.569; or

(2) A cost allocation plan that meets the non-supplanting requirements in subrule 120.225(2) and 34 CFR Part 76 of EDGAR.

c. In charging indirect costs under paragraph 120.225(3)*"b,"* the department may not charge rent, occupancy, or space maintenance costs directly to the Part C grant, unless those costs are specifically approved in advance by the Secretary.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.226(34CFR303) Fiscal control. The department must ensure that fiscal control and fund accounting procedures will be adopted as necessary to ensure proper disbursement of, and accounting for, federal funds paid under Part C of the Act.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.227(34CFR303) Traditionally underserved groups. The department must ensure that policies and practices have been adopted to ensure that traditionally underserved groups, including minority, low-income, homeless, and rural families and children with disabilities who are wards of the state, are meaningfully involved in the planning and implementation of this chapter and that these families have access to culturally competent services within their local geographical areas.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.228(34CFR303) Subsequent state application and modifications of application.

120.228(1) *Subsequent state application.* If the state has on file with the Secretary a policy, procedure, method, or assurance that demonstrates that the state meets an application requirement in this chapter, including any policy, procedure, method, or assurance filed under this chapter (as in effect before the date of enactment of the Act, December 3, 2004), the Secretary considers the state to have met that requirement for purposes of receiving a grant under Part C of the Act.

120.228(2) *Modification of application.* An application submitted by the state that satisfies this chapter remains in effect until the state submits to the Secretary such modifications as the state determines necessary. This rule applies to a modification of an application to the same extent and in the same manner as this subrule applies to the original application.

120.228(3) *Modifications required by the Secretary.* The Secretary may require the state to modify its application under Part C of the Act to the extent necessary to ensure the state's compliance with Part C of the Act if:

a. An amendment is made to the Act or to a federal regulation issued under the Act;

b. A new interpretation of the Act is made by a federal court or the state's highest court; or

c. An official finding of noncompliance with federal law or regulations is made with respect to the state.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.229 to **120.299** Reserved.

DIVISION V
CHILD FIND; EVALUATIONS AND ASSESSMENTS; INDIVIDUALIZED FAMILY SERVICE PLANS

281—120.300(34CFR303) General. The statewide comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families must include the following components:

120.300(1) *Pre-referral activities.* The system must contain pre-referral policies and procedures that include:

a. A public awareness program as described in rule 281—120.301(34CFR303); and

b. A comprehensive child find system as described in rule 281—120.302(34CFR303).

120.300(2) *Referral activities.* The system must contain referral policies and procedures as described in rule 281—120.303(34CFR303).

120.300(3) *Post-referral activities.* The system must contain post-referral policies and procedures that ensure compliance with the timeline requirements in rule 281—120.310(34CFR303) and include:

a. Screening, if applicable, as described in rule 281—120.320(34CFR303);

b. Evaluations and assessments as described in rules 281—120.321(34CFR303) and 281—120.322(34CFR303); and

c. Development, review, and implementation of IFSPs as described in rules 281—120.340(34CFR303) through 281—120.346(34CFR303).

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.301(34CFR303) Public awareness program—information for parents.

120.301(1) *Preparation and dissemination.* In accordance with rule 281—120.116(34CFR303), the system must include a public awareness program that requires the department to:

a. Prepare information on the availability of early intervention services under this chapter, and other services, as described in subrule 120.301(2) and disseminate to all primary referral sources (especially hospitals and physicians) the information to be given to parents of infants and toddlers, especially parents with premature infants or infants with other physical risk factors associated with learning or developmental complications; and

b. Adopt procedures for assisting the primary referral sources described in subrule 120.303(3) in disseminating the information described in subrule 120.301(2) to parents of infants and toddlers with disabilities.

120.301(2) *Information to be provided.* The information required to be prepared and disseminated under subrule 120.301(1) must include:

a. A description of the availability of Early ACCESS services under this chapter;

b. A description of the child find system and how to refer a child under the age of three for an evaluation or early intervention services; and

c. A central directory, as described in rule 281—120.117(34CFR303).

120.301(3) *Information specific to toddlers with disabilities.* The public awareness program also must include a requirement that the department provide for informing parents of toddlers with disabilities of the availability of services under Section 619 of the Act not fewer than 90 days prior to the toddler's third birthday.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.302(34CFR303) Comprehensive child find system.

120.302(1) *General.* The Early ACCESS system must include a comprehensive child find system that:

a. Is consistent with Part B of the Act (see 34 CFR 300.111);

b. Includes a system for making referrals to applicable public agencies or EIS providers under this chapter that:

(1) Includes timelines; and

(2) Provides for participation by the primary referral sources described in subrule 120.303(3);

c. Ensures rigorous standards for appropriately identifying infants and toddlers with disabilities for early intervention services under this chapter that will reduce the need for future services; and

d. Satisfies subrules 120.302(2) and 120.302(3) and rules 281—120.303(34CFR303), 281—120.310(34CFR303), 281—120.320(34CFR303), and 281—120.321(34CFR303).

120.302(2) *Scope of child find.* The department, as part of the child find system, must ensure that:

a. All infants and toddlers with disabilities in the state who are eligible for early intervention services under this chapter are identified, located, and evaluated, including:

(1) Indian infants and toddlers with disabilities residing on a reservation or settlement geographically located in the state (including coordination, as necessary, with tribes, tribal organizations, and consortia to identify infants and toddlers with disabilities in the state based, in part, on the information provided by them to the department under 34 CFR §303.731(e)(1)); and

(2) Infants and toddlers with disabilities who are homeless, in foster care, and wards of the state; and

(3) Infants and toddlers with disabilities that are referenced in subrule 120.303(2); and

b. An effective method is developed and implemented to identify children who are in need of early intervention services.

120.302(3) *Coordination.*

a. The department, with the assistance of the council, must ensure that the child find system under this chapter:

(1) Is coordinated with all other major efforts to locate and identify children by other state agencies responsible for administering the various education, health, and social service programs relevant to this chapter, including Indian tribes that receive payments under this chapter, and other Indian tribes, as appropriate; and

(2) Is coordinated with the efforts of the:

1. Program authorized under Part B of the Act;

2. Maternal and Child Health program, including the Maternal, Infant, and Early Childhood Home Visiting Program, under Title V of the Social Security Act (MCHB or Title V) (42 U.S.C. 701(a));

3. Early Periodic Screening, Diagnosis, and Treatment (EPSDT) under Title XIX of the Social Security Act (42 U.S.C. 1396(a)(43) and 1396(a)(4)(B));

4. Programs under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.);

5. Head Start Act (including Early Head Start programs under Section 645A of the Head Start Act) (42 U.S.C. 9801 et seq.);

6. Supplemental Security Income program under Title XVI of the Social Security Act (42 U.S.C. 1381);

7. Child protection and child welfare programs, including programs administered by, and services provided through, the foster care agency and the state agency responsible for administering the Child Abuse Prevention and Treatment Act (CAPTA) (42 U.S.C. 5106(a));

8. Child care programs in the state;

9. Programs that provide services under the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.);

10. Early Hearing Detection and Intervention (EHDI) systems (42 U.S.C. 280g-1) administered by the Centers for Disease Control (CDC); and

11. Children's Health Insurance Program (CHIP) authorized under Title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.).

b. The department, with the advice and assistance of the council, must take steps to ensure that:

(1) There will not be unnecessary duplication of effort by the programs identified in paragraph 120.302(3)*"a"*; and

(2) The state will make use of the resources available through each public agency and EIS provider in the state to implement the child find system in an effective manner.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.303(34CFR303) Referral procedures.

120.303(1) *General.* The child find system described in rule 281—120.302(34CFR303) must include the state's procedures for use by primary referral sources for referring a child under the age of three to the Part C program. The procedures required in this subrule must:

a. Provide for referring a child as soon as possible, but in no case more than seven days, after the child has been identified; and

b. Meet the requirements in subrules 120.303(2) and 120.303(3).

120.303(2) *Referral of specific at-risk infants and toddlers.* The procedures required in subrule 120.303(1) must provide for requiring the referral of a child under the age of three who:

a. Is the subject of a substantiated case of child abuse or neglect; or

b. Is identified as directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure.

120.303(3) *Primary referral sources.* As used in this division, primary referral sources include:

a. Hospitals, including prenatal and postnatal care facilities;

b. Physicians;

c. Parents, including parents of infants and toddlers;

d. Child care programs and early learning programs;

e. AEAs, LEAs and schools;

f. Public health facilities;

g. Other public health or social service agencies;

h. Other clinics and health care providers;

i. Public agencies and staff in the child welfare system, including child protective service and foster care;

j. Homeless family shelters; and

k. Domestic violence shelters and agencies.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.304 to **120.309** Reserved.

281—120.310(34CFR303) Post-referral timeline (45 calendar days).

120.310(1) *General.* Except as provided in subrule 120.310(2), any screening under rule 281—120.320(34CFR303); the initial evaluation and the initial assessments of the child and family under rule 281—120.321(34CFR303); and the initial IFSP meeting under rule 281—120.342(34CFR303) must be completed within 45 calendar days from the date the public agency or EIS provider receives the referral of the child.

120.310(2) *Limited exceptions.* Subject to subrule 120.310(3), the 45-day timeline described in subrule 120.310(1) does not apply for any period when:

a. The child or parent is unavailable to complete the screening (if applicable), the initial evaluation, the initial assessments of the child and family, or the initial IFSP meeting due to exceptional family circumstances that are documented in the child's early intervention records; or

b. The parent has not provided consent for the screening (if applicable), the initial evaluation, or the initial assessment of the child, despite documented, repeated attempts by the public agency or EIS provider to obtain parental consent.

120.310(3) *Duties when limited exceptions occur.* The department must develop procedures to ensure that in the event the circumstances described in subrule 120.310(2) exist, the public agency or EIS provider must:

a. Document in the child's early intervention records the exceptional family circumstances or repeated attempts by the public agency or EIS provider to obtain parental consent;

b. Complete the screening (if applicable), the initial evaluation, the initial assessments (of the child and family), and the initial IFSP meeting as soon as possible after the documented exceptional family circumstances described in paragraph 120.310(2)*"a"* no longer exist or parental consent is obtained for the screening (if applicable), the initial evaluation, and the initial assessment of the child; and

c. Develop and implement an interim IFSP, to the extent appropriate and consistent with rule 281—120.345(34CFR303).

120.310(4) *Initial family assessment.* The initial family assessment must be conducted within the 45-day timeline in subrule 120.310(1) if the parent concurs and even if other family members are unavailable.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.311 to **120.319** Reserved.

281—120.320(34CFR303) Screening procedures.

120.320(1) *General.*

a. The department may adopt procedures, consistent with this rule, to screen children under the age of three who have been referred to the Part C program to determine whether they are suspected of having a disability under this chapter. If a public agency or EIS provider proposes to screen a child, the agency or EIS provider must:

(1) Provide the parent notice under rule 281—120.421(34CFR303) of the public agency's or EIS provider's intent to screen the child to identify whether the child is suspected of having a disability and include in that notice a description of the parent's right to request an evaluation under rule 281—120.321(34CFR303) at any time during the screening process; and

(2) Obtain parental consent as required in subrule 120.420(1) before conducting the screening procedures.

b. If the parent consents to the screening and the screening or other available information indicates that the child is:

(1) Suspected of having a disability, after notice is provided under rule 281—120.421(34CFR303) and once parental consent is obtained as required in rule 281—120.420(34CFR303), an evaluation and assessment of the child must be conducted under rule 281—120.321(34CFR303); or

(2) Not suspected of having a disability, the public agency or EIS provider must ensure that notice of that determination is provided to the parent under rule 281—120.421(34CFR303), and that the notice describes the parent's right to request an evaluation.

c. If the parent of the child requests and consents to an evaluation at any time during the screening process, evaluation of the child must be conducted under rule 281—120.321(34CFR303), even if the public agency or EIS provider has determined under subparagraph 120.320(1)*"b"*(2) that the child is not suspected of having a disability.

120.320(2) *Definition of screening procedures.* As used in this rule, "screening procedures":

a. Means activities under subrule 120.320(1) that are carried out by, or under the supervision of, a public agency or EIS provider to identify, at the earliest possible age, infants and toddlers suspected of having a disability and in need of early intervention services; and

b. Includes the administration of appropriate instruments by personnel trained to administer those instruments.

120.320(3) *Condition for evaluation or early intervention services.* For every child under the age of three who is referred to the Part C program or screened in accordance with subrule 120.320(1), the applicable agency is not required to:

a. Provide an evaluation of the child under rule 281—120.321(34CFR303) unless the child is suspected of having a disability or the parent requests an evaluation under paragraph 120.320(1)*"c"*; or

b. Make Early ACCESS services available under this chapter to the child unless a determination is made that the child meets the definition of infant or toddler with a disability under rule 281—120.21(34CFR303).

120.320(4) *Rules of construction.*

a. This rule does not apply to activities undertaken by entities not regulated by this chapter, activities that are undertaken by grantees, signatory agencies, Early ACCESS providers prior to referral, activities undertaken after consent for an evaluation and assessment under rule 281—120.321(34CFR303) is received, or to activities taken pursuant to an IFSP.

b. As a general rule, a public agency suspects a child is a child with a disability when the public agency is aware of facts and circumstances that, when considered as a whole, would cause a reasonably prudent public agency to believe that the child's performance might be explained because the child is an eligible individual under this chapter.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.321(34CFR303) Evaluation of the child and assessment of the child and family.

120.321(1) *General.* The department must ensure that, subject to obtaining parental consent in accordance with subrule 120.420(1), each child under the age of three who is referred for evaluation or early intervention services under this chapter and suspected of having a disability receives:

a. A timely, comprehensive, multidisciplinary evaluation of the child in accordance with subrule 120.321(4) unless eligibility is established in paragraph 120.321(3)*"a"*; and

b. If the child is determined eligible as an infant or toddler with a disability as defined in rule 281—120.21(34CFR303):

(1) A multidisciplinary assessment of the unique strengths and needs of that infant or toddler and the identification of services appropriate to meet those needs;

(2) A family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of that infant or toddler. The assessments of the child and family are described in subrule 120.321(5), and these assessments may occur simultaneously with the evaluation, provided that the requirements of subrule 120.321(4) are met.

120.321(2) *Definitions.* As used in this chapter:

a. "Evaluation" means the procedures used by qualified personnel to determine a child's initial and continuing eligibility under this chapter, consistent with the definition of infant or toddler with a disability in rule 281—120.21(34CFR303);

b. "Initial evaluation" means the child's evaluation to determine the child's initial eligibility under this chapter;

c. "Assessment" means the ongoing procedures used by qualified personnel to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs throughout the period of the child's eligibility under this chapter and includes the assessment of the child, consistent

with paragraph 120.321(5)*"a"* and the assessment of the child's family, consistent with paragraph 120.321(5)*"b"*; and

d. "Initial assessment" means the assessment of the child and the family assessment conducted prior to the child's first IFSP meeting.

120.321(3) *General procedures.*

a. A child's medical and other records may be used to establish eligibility (without conducting an evaluation of the child) under this chapter if those records indicate that the child's level of functioning in one or more of the developmental areas identified in subrule 120.21(1) constitutes a developmental delay or that the child otherwise meets the criteria for an infant or toddler with a disability under rule 281—120.21(34CFR303). If the child's Part C eligibility is established under this paragraph, the public agency or EIS provider must conduct assessments of the child and family in accordance with subrule 120.321(5).

b. Qualified personnel must use informed clinical opinion when conducting an evaluation and assessment of the child. In addition, the department must ensure that informed clinical opinion may be used as an independent basis to establish a child's eligibility under this chapter even when other instruments do not establish eligibility; however, in no event may informed clinical opinion be used to negate the results of evaluation instruments used to establish eligibility under subrule 120.321(4).

c. All evaluations and assessments of the child and family must be conducted by qualified personnel, in a nondiscriminatory manner, and selected and administered so as not to be racially or culturally discriminatory.

d. Unless clearly not feasible to do so, all evaluations and assessments of a child must be conducted in the native language of the child.

e. Unless clearly not feasible to do so, family assessments must be conducted in the native language of the family members being assessed.

120.321(4) *Procedures for evaluation of the child.* In conducting an evaluation, no single procedure may be used as the sole criterion for determining a child's eligibility under this chapter. Procedures must include:

a. Administering an evaluation instrument;

b. Taking the child's history (including interviewing the parent);

c. Identifying the child's level of functioning in each of the developmental areas in subrule 120.21(1);

d. Gathering information from other sources such as family members, other caregivers, medical providers, social workers, and educators, if necessary, to understand the full scope of the child's unique strengths and needs; and

e. Reviewing medical, educational, or other records.

120.321(5) *Procedures for assessment of the child and family.*

a. An assessment of each infant or toddler with a disability must be conducted by qualified personnel in order to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs. The assessment of the child must include the following:

(1) A review of the results of the evaluation conducted under subrule 120.321(4);

(2) Personal observations of the child; and

(3) The identification of the child's needs in each of the developmental areas in subrule 120.21(1).

b. A family-directed assessment must be conducted by qualified personnel in order to identify the family's resources, priorities, and concerns and the supports and services necessary to enhance the family's capacity to meet the developmental needs of the family's infant or toddler with a disability. The family-directed assessment must:

(1) Be voluntary on the part of each family member participating in the assessment;

(2) Be based on information obtained through an assessment tool and also through an interview with those family members who elect to participate in the assessment; and

(3) Include the family's description of its resources, priorities, and concerns related to enhancing the child's development.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.322(34CFR303) Determination that a child is not eligible. If, based on the evaluation conducted under rule 281—120.321(34CFR303), the applicable agency determines that a child is not eligible under this chapter, the agency must provide the parent with prior written notice required in rule 281—120.421(34CFR303), and include in the notice information about the parent's right to dispute the eligibility determination through dispute resolution mechanisms under rule 281—120.430(34CFR303), such as requesting a due process hearing or mediation or filing a state complaint.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.323 to **120.339** Reserved.

281—120.340(34CFR303) Individualized family service plan—general. For each infant or toddler with a disability, the department must ensure the development, review, and implementation of an individualized family service plan developed by a multidisciplinary team, which includes the parent, that is consistent with the definition of individualized family service plan in rule 281—120.20(34CFR303) and satisfies rules 281—120.342(34CFR303) through 281—120.346(34CFR303).
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.341 Reserved.

281—120.342(34CFR303) Procedures for IFSP development, review, and evaluation.

120.342(1) *Meeting to develop initial IFSP—timelines.* For a child referred to the Early ACCESS system and determined to be eligible under this chapter as an infant or toddler with a disability, a meeting to develop the initial IFSP must be conducted within the 45-day time period described in rule 281—120.310(34CFR303).

120.342(2) *Periodic review.*

a. A review of the IFSP for a child and the child's family must be conducted every six months, or more frequently if conditions warrant, or if the family requests such a review. The purpose of the periodic review is to determine:

(1) The degree to which progress toward achieving the results or outcomes identified in the IFSP is being made; and

(2) Whether modification or revision of the results, outcomes, or early intervention services identified in the IFSP is necessary.

b. The review may be carried out by a meeting or by another means that is acceptable to the parents and other participants.

120.342(3) *Annual meeting to evaluate the IFSP.* A meeting must be conducted on at least an annual basis to evaluate and revise, as appropriate, the IFSP for a child and the child's family. The results of any current evaluations and other information available from the assessments of the child and family conducted under rule 281—120.321(34CFR303) must be used in determining the early intervention services that are needed and will be provided.

120.342(4) *Accessibility and convenience of meetings.*

a. IFSP meetings must be conducted:

(1) In settings and at times that are convenient for the family; and

(2) In the native language of the family or other mode of communication used by the family, unless it is clearly not feasible to do so.

b. Meeting arrangements must be made with, and written notice provided to, the family and other participants early enough before the meeting date to ensure that they will be able to attend.

120.342(5) *Parental consent.* The contents of the IFSP must be fully explained to the parents and informed written consent, as described in rule 281—120.7(34CFR303), must be obtained, as required in subrule 120.420(1), prior to the provision of early intervention services described in the IFSP. Each early intervention service must be provided as soon as possible after the parent provides consent for that service, as required in subrule 120.344(6).
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.343(34CFR303) IFSP team meeting and periodic review.

120.343(1) *Initial and annual IFSP team meeting.*

a. Each initial meeting and each annual IFSP team meeting to evaluate the IFSP must include the following participants:

(1) The parent or parents of the child.

(2) Other family members, as requested by the parent, if feasible to do so.

(3) An advocate or person outside of the family, if the parent requests that the person participate.

(4) The service coordinator designated by the public agency to be responsible for implementing the IFSP.

(5) A person or persons directly involved in conducting the evaluations and assessments in rule 281—120.321(34CFR303).

(6) As appropriate, persons who will be providing early intervention services under this chapter to the child or family.

b. If a person listed in subparagraph 120.343(1)*"a"*(5) is unable to attend a meeting, arrangements must be made for the person's involvement through other means, including one of the following:

(1) Participating in a telephone conference call.

(2) Having a knowledgeable authorized representative attend the meeting.

(3) Making pertinent records available at the meeting.

120.343(2) *Periodic review.* Each periodic review under subrule 120.342(2) must provide for the participation of persons in subparagraphs 120.343(1)*"a"*(1) through (4). If conditions warrant, provisions must be made for the participation of other representatives identified in subrule 120.343(1).

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.344(34CFR303) Content of an IFSP.

120.344(1) *Information about the child's status.* The IFSP must include a statement of the infant or toddler with a disability's present levels of physical development (including vision, hearing, and health status), cognitive development, communication development, social or emotional development, and adaptive development based on the information from that child's evaluation and assessments conducted under rule 281—120.321(34CFR303).

120.344(2) *Family information.* With the concurrence of the family, the IFSP must include a statement of the family's resources, priorities, and concerns related to enhancing the development of the child as identified through the assessment of the family under paragraph 120.321(5)*"b."*

120.344(3) *Results or outcomes.* The IFSP must include a statement of the measurable results or measurable outcomes expected to be achieved for the child (including preliteracy and language skills, as developmentally appropriate for the child) and family, and the criteria, procedures, and timelines used to determine:

a. The degree to which progress toward achieving the results or outcomes identified in the IFSP is being made; and

b. Whether modifications or revisions of the expected results or outcomes, or early intervention services identified in the IFSP are necessary.

120.344(4) *Early intervention services.*

a. The IFSP must include a statement of the specific early intervention services, based on peer-reviewed research (to the extent practicable), that are necessary to meet the unique needs of the child and the family to achieve the results or outcomes identified in subrule 120.344(3), including:

(1) The length, duration, frequency, intensity, and method of delivering the early intervention services;

(2) A statement that each early intervention service is provided in the natural environment for that child or service to the maximum extent appropriate, consistent with paragraph 120.13(1)*"h,"* rule 281—120.26(34CFR303), and rule 281—120.126(34CFR303), or, subject to subparagraph 120.344(4)*"a"*(3), a justification as to why an early intervention service will not be provided in the natural environment;

(3) The determination of the appropriate setting for providing early intervention services to an infant or toddler with a disability, including any justification for not providing a particular early intervention service in the natural environment for that infant or toddler with a disability and service, must be:

1. Made by the IFSP team (which includes the parent and other team members);

2. Consistent with the provisions in paragraph 120.13(1)*"h,"* rule 281—120.26(34CFR303), and rule 281—120.126(34CFR303); and

3. Based on the child's outcomes identified by the IFSP team in subrule 120.344(3);

(4) The location of the early intervention services; and

(5) The payment arrangements, if any.

b. As used in this subrule:

(1) "Frequency and intensity" means the number of days or sessions that a service will be provided and whether the service is provided on an individual or group basis.

(2) "Method" means how a service is provided.

(3) "Length" means the length of time the service is provided during each session of that service (such as an hour or other specified time period).

(4) "Duration" means projecting when a given service will no longer be provided (such as when the child is expected to achieve the results or outcomes in the child's IFSP).

(5) "Location" means the actual place or places where a service will be provided.

120.344(5) *Other services.* To the extent appropriate, the IFSP also must:

a. Identify medical and other services that the child or family needs or is receiving through other sources, but that are neither required nor funded under this chapter; and

b. If those services are not currently being provided, include a description of the steps the service coordinator or family may take to assist the child and family in securing those other services.

120.344(6) *Dates and duration of services.* The IFSP must include:

a. The projected date for the initiation of each early intervention service in subrule 120.344(4), which date must be as soon as possible after the parent consents to the service, as required in subrules 120.342(5) and 120.420(1); and

b. The anticipated duration of each service.

120.344(7) *Service coordinator.* The IFSP must include the name of the service coordinator from the profession most relevant to the child's or family's needs (or who is otherwise qualified to carry out all applicable responsibilities under this chapter), who will be responsible for implementing the early intervention services identified in a child's IFSP, including transition services, and coordination with other agencies and persons. In satisfying this subrule, the term "profession" includes "service coordination."

120.344(8) *Transition from Part C services.*

a. The IFSP must include the steps and services to be taken to support the smooth transition of the child, in accordance with rule 281—120.209(34CFR303), from Part C services to:

(1) Preschool services under Part B of the Act, to the extent that those services are appropriate; or

(2) Other appropriate services.

b. The steps required in paragraph 120.344(8)*"a"* must include:

(1) Discussions with, and training of, parents, as appropriate, regarding future placements and other matters related to the child's transition;

(2) Procedures to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in, a new setting;

(3) Confirmation that child find information about the child has been transmitted to the AEA or other relevant agency, in accordance with subrule 120.209(2) and, with parental consent if required under rule 281—120.414(34CFR303), transmission of additional information needed by the AEA to ensure continuity of services from the Part C program to the Part B program, including a copy of the most recent evaluation and assessments of the child and the family and most recent IFSP developed in accordance with rules 281—120.340(34CFR30) through 281—120.345(34CFR303); and

(4) Identification of transition services and other activities that the IFSP team determines are necessary to support the transition of the child.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.345(34CFR303) Interim IFSPs—provision of services before evaluations and assessments are completed. Early intervention services for an eligible child and the child's family may commence

before the completion of the evaluation and assessments in rule 281—120.321(34CFR303), if the following conditions are met:

120.345(1) Parental consent is obtained.

120.345(2) An interim IFSP is developed that includes the name of the service coordinator who will be responsible, consistent with subrule 120.344(7), for implementing the interim IFSP and coordinating with other agencies and persons and includes the early intervention services that have been determined to be needed immediately by the child and the child's family.

120.345(3) Evaluations and assessments are completed within the 45-day timeline in rule 281—120.310(34CFR303).

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.346(34CFR303) Responsibility and accountability. Each public agency or EIS provider who has a direct role in the provision of early intervention services is responsible for making a good-faith effort to assist each eligible child in achieving the outcomes in the child's IFSP. However, Part C of the Act does not require that any public agency or EIS provider be held accountable if an eligible child does not achieve the growth projected in the child's IFSP, so long as the child's IFSP was reasonably calculated to confer benefit and was implemented.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.347(256B,34CFR303) Family support mentoring program. Rule 281—41.329(256B,34CFR300) is incorporated herein by this reference.

This rule is intended to implement Iowa Code section 256B.10.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.348 to **120.399** Reserved.

DIVISION VI
PROCEDURAL SAFEGUARDS

281—120.400(34CFR303) General responsibility of lead agency for procedural safeguards. Subject to subrule 120.400(3), the department must:

120.400(1) Establish or adopt the procedural safeguards that satisfy this division, including the provisions on confidentiality in rules 281—120.401(34CFR303) through 281—120.417(34CFR303), parental consent and notice in rules 281—120.420(34CFR303) and 281—120.421(34CFR303), surrogate parents in rule 281—120.422(34CFR303), and dispute resolution procedures in rule 281—120.430(34CFR303);

120.400(2) Ensure the effective implementation of the safeguards by each participating agency (including the lead agency and EIS providers) in the statewide system that is involved in the provision of early intervention services under this chapter; and

120.400(3) Make available to parents an initial copy of the child's early intervention record, at no cost to the parents.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.401(34CFR303) Confidentiality and opportunity to examine records.

120.401(1) *General.* The state must ensure that the parents of a child referred under this chapter are afforded the right to confidentiality of personally identifiable information, including the right to written notice of, and written consent to, the exchange of that information among agencies, consistent with federal and state laws.

120.401(2) *Confidentiality procedures.* As required under Sections 617(c) and 642 of the Act, rules 281—120.401(34CFR303) through 281—120.417(34CFR303) ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained pursuant to this chapter by the Secretary and by participating agencies, including the department and EIS providers, in

accordance with the protections under the Family Educational Rights and Privacy Act (FERPA) in 20 U.S.C. 1232g and 34 CFR Part 99. The state must have procedures in effect to ensure that:

a. Participating agencies (including the lead agency and EIS providers) comply with the Part C confidentiality procedures in rules 281—120.401(34CFR303) through 281—120.417(34CFR303); and

b. The parents of infants or toddlers who are referred to or receive services under this chapter are afforded the opportunity to inspect and review all Part C early intervention records about the child and the child's family that are collected, maintained, or used under this chapter, including records related to evaluations and assessments, screening, eligibility determinations, development and implementation of IFSPs, provision of early intervention services, individual complaints involving the child, or any part of the child's early intervention record under this chapter.

120.401(3) *Applicability and time frame of procedures.* The confidentiality procedures described in subrule 120.401(2) apply to the personally identifiable information of a child and the child's family that:

a. Is contained in early intervention records collected, used, or maintained under this chapter by the department or an EIS provider; and

b. Applies from the point in time when the child is referred for early intervention services under this chapter until the later of when the participating agency is no longer required to maintain or no longer maintains that information under applicable federal and state laws.

120.401(4) *Disclosure of information: transition from Part C to Part B.*

a. The department shall disclose to the AEA where the child resides, in accordance with subrule 120.209(2), the following personally identifiable information under the Act:

(1) A child's name.

(2) A child's date of birth.

(3) Parent contact information (including parents' names, addresses, and telephone numbers).

b. The information described in this subrule is needed to enable the department, as well as LEAs and AEAs under Part B of the Act, to identify all children potentially eligible for services under Part B of the Act.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.402(34CFR303) Confidentiality. The Secretary takes appropriate action, in accordance with Section 444 of GEPA, to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected, maintained, or used by the Secretary and by all lead agencies and EIS providers pursuant to Part C of the Act and consistent with rules 281—120.401(34CFR303) through 281—120.417(34CFR303). Rules 281—120.401(34CFR303) through 281—120.417(34CFR303) ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained pursuant to this chapter by the Secretary and by participating agencies, including state lead agencies and EIS providers, in accordance with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, and 34 CFR Part 99.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.403(34CFR303) Definitions. The following definitions apply to rules 281— 120.402(34CFR303) through 281—120.417(34CFR303) in addition to the definition of "personally identifiable information" in rule 281—120.29(34CFR303) and the definition of "disclosure" in 34 CFR 99.3:

120.403(1) "Destruction" means physical destruction of the record or ensuring that personal identifiers are removed from a record so that the record is no longer personally identifiable under rule 281—120.29(34CFR303).

120.403(2) "Early intervention records" means all records regarding a child that are required to be collected, maintained, or used under Part C of the Act and the rules in this chapter.

120.403(3) "Participating agency" means any individual, agency, entity, or institution that collects, maintains, or uses personally identifiable information to implement Part C of the Act and the rules in this chapter with respect to a particular child. A participating agency includes the department and EIS providers and any individual or entity that provides any Part C services (including service coordination, evaluations and assessments), but does not include primary referral sources, or public agencies (such as the state

Medicaid program or CHIP) or private entities (such as private insurance companies) that act solely as funding sources for Part C services.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.404(34CFR303) Notice to parents. The relevant agency must give notice when a child is referred under Part C of the Act that is adequate to fully inform parents about rule 281—120.402(34CFR303), including:

120.404(1) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the state intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;

120.404(2) A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information;

120.404(3) A description of all the rights of parents and children regarding this information, including their rights under the Part C confidentiality provisions in rules 281—120.401(34CFR303) through 281—120.417(34CFR303); and

120.404(4) A description of the extent that the notice is provided in the native languages of the various population groups in the state.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.405(34CFR303) Access rights.

120.405(1) *General.* Each participating agency must permit parents to inspect and review any early intervention records relating to their children that are collected, maintained, or used by the agency under this chapter. The agency must comply with a parent's request to inspect and review records without unnecessary delay and before any meeting regarding an IFSP, or any hearing pursuant to subrule 120.430(4) and rules 281—120.435(34CFR303) through 281—120.439(34CFR303), and in no case more than ten days after the request is made.

120.405(2) *Inspect and review.* The right to inspect and review early intervention records under this rule includes:

a. The right to a response from the participating agency to reasonable requests for explanations and interpretations of the early intervention records;

b. The right to request that the participating agency provide copies of the early intervention records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and

c. The right to have a representative of the parent inspect and review the early intervention records.

120.405(3) *Rule of construction.* An agency may presume that the parent has authority to inspect and review records relating to the parent's child unless the agency has been provided documentation that the parent does not have the authority under applicable state laws governing such matters as custody, foster care, guardianship, separation, and divorce.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.406(34CFR303) Record of access. Each participating agency must keep a record of parties obtaining access to early intervention records collected, maintained, or used under Part C of the Act (except access by parents and authorized representatives and employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the early intervention records.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.407(34CFR303) Records on more than one child. If any early intervention record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.408(34CFR303) List of types and locations of information. Each participating agency must provide parents, on request, a list of the types and locations of early intervention records collected, maintained, or used by the agency.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.409(34CFR303) Fees for records.

120.409(1) *General.* Each participating agency may charge a fee for copies of records that are made for parents under this chapter if the fee does not effectively prevent the parents from exercising their right to inspect and review those records, except as provided in subrule 120.409(3).

120.409(2) *No fees to search or retrieve.* A participating agency may not charge a fee to search for or to retrieve information under this chapter.

120.409(3) *Copies of certain documents at no cost.* A participating agency must provide at no cost to parents a copy of each evaluation, assessment of the child, family assessment, and IFSP as soon as possible after each IFSP meeting.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.410(34CFR303) Amendment of records at a parent's request.

120.410(1) *Parent permitted to request amendment.* A parent who believes that information in the early intervention records collected, maintained, or used under this chapter is inaccurate, misleading, or violates the privacy or other rights of the child or parent may request that the participating agency that maintains the information amend the information.

120.410(2) *Agency to act on parent's request.* The participating agency must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.

120.410(3) *Agency to inform parent of hearing rights.* If the participating agency refuses to amend the information in accordance with the request, the participating agency must inform the parent of the refusal and advise the parent of the right to a hearing under rule 281—120.411(34CFR303).
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.411(34CFR303) Opportunity for a hearing. The participating agency must, on request, provide parents with the opportunity for a hearing to challenge information in their child's early intervention records to ensure that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child or parents. A parent may request a due process hearing under the procedures in subrule 120.430(4), provided that such hearing procedures satisfy the hearing procedures in rule 281—120.413(34CFR303), or may request a hearing directly under rule 281—120.413(34CFR303).
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.412(34CFR303) Result of hearing.

120.412(1) *Information to be amended.* If, as a result of the hearing, the participating agency decides that the information is inaccurate, misleading or in violation of the privacy or other rights of the child or parent, the participating agency must amend the information accordingly and so inform the parent in writing.

120.412(2) *Information not to be amended.* If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or in violation of the privacy or other rights of the child or parent, the agency must inform the parent of the right to place in the early intervention records the agency maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.

120.412(3) *Explanation placed in records.* Any explanation placed in the early intervention records of the child under this rule must be maintained by the agency as part of the early intervention records of the child as long as the record or contested portion is maintained by the agency. If the early intervention records of the child or the contested portion are disclosed by the agency to any party, the explanation must also be disclosed to the party.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.413(34CFR303) Hearing procedures. A hearing held under rule 281—120.411(34CFR303) will be conducted according to the procedures under 34 CFR 99.22.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.414(34CFR303) Consent prior to disclosure or use.

120.414(1) *General.* Except as provided in subrule 120.414(2), prior parental consent must be obtained before personally identifiable information is:

a. Disclosed to anyone other than authorized representatives, officials, or employees of participating agencies collecting, maintaining, or using the information under this chapter, subject to subrule 120.414(2); or

b. Used for any purpose other than meeting a requirement of this chapter.

120.414(2) *Exceptions.* The department or other participating agency may not disclose personally identifiable information, as defined in rule 281—120.29(34CFR303), to any party except participating agencies (including the department and EIS providers) that are part of the state's Part C system without parental consent unless authorized to do so under:

a. Subrules 120.401(1) and 120.209(2); or

b. One of the exceptions enumerated in 34 CFR 99.31 (where applicable to Part C), which are expressly adopted to apply to Part C through this reference. In applying the exceptions in 34 CFR 99.31 to this chapter, participating agencies must also comply with the pertinent conditions in 34 CFR 99.32, 99.33, 99.34, 99.35, 99.36, 99.38, and 99.39. In applying these provisions in 34 CFR Part 99 to Part C, the reference to:

(1) 34 CFR 99.30 means subrule 120.414(1);

(2) "Education records" means early intervention records under subrule 120.403(2);

(3) "Educational" means early intervention under this chapter;

(4) "Educational agency or institution" means the participating agency under subrule 120.403(3);

(5) "School officials and officials of another school or school system" means qualified personnel or service coordinators under this chapter;

(6) "State and local educational authorities" means the department and EIS providers and grantees; and

(7) "Student" means child under this chapter.

120.414(3) *Policies and procedures regarding refusal to provide consent.* The department must provide policies and procedures to be used when a parent refuses to provide consent under this rule (such as a meeting to explain to parents how their failure to consent affects the ability of their child to receive services under this chapter), provided that those procedures do not override a parent's right to refuse consent under rule 281—120.420(34CFR303).
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.415(34CFR303) Safeguards. Each participating agency must protect the confidentiality of personally identifiable information at the collection, maintenance, use, storage, disclosure, and destruction stages. One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information. All persons collecting or using personally identifiable information must receive training or instruction regarding the state's policies and procedures under rules 281—120.401(34CFR303) through 281—120.417(34CFR303) and 34 CFR Part 99. Each participating agency must maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.416(34CFR303) Destruction of information.

120.416(1) *Notification to parent.* The participating agency must inform parents when personally identifiable information collected, maintained, or used under this chapter is no longer needed to provide services to the child under Part C of the Act, the GEPA provisions in 20 U.S.C. 1232f, and EDGAR, 34 CFR Parts 76 and 80.

120.416(2) *Mandatory and permissive destruction of personally identifiable information.* Subject to subrule 120.416(1), the information must be destroyed at the request of the parents. However, a permanent record of a child's name, date of birth, parent contact information (including address and telephone number), names of service coordinator(s) and EIS provider(s), and exit data (including year and age upon exit and any programs entered into upon exiting) may be maintained without time limitation.

120.416(3) *Rule of construction—"no longer needed to provide services."* For purposes of this rule, "no longer needed to provide services" means that a record is no longer relevant to the provision of Early ACCESS services and is no longer needed for accountability and audit purposes. At a minimum, a record needed for accountability and audit purposes will be retained for five years after completion of the activity for which funds were used.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.417(34CFR303) Enforcement. The department must have in effect the policies and procedures, including sanctions and the right to file a complaint under rules 281—120.432(34CFR303) through 281—120.434(34CFR303), that the department uses to ensure that its policies and procedures, consistent with rules 281—120.401(34CFR303) through 281—120.417(34CFR303), are followed and that the Act and the rules in this chapter are met.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.418 and **120.419** Reserved.

281—120.420(34CFR303) Parental consent and ability to decline services.

120.420(1) *General.* The relevant agency must ensure parental consent is obtained before:

a. Administering screening procedures under rule 281—120.320(34CFR303) that are used to determine whether a child is suspected of having a disability;

b. All evaluations and assessments of a child are conducted under rule 281—120.321(34CFR303);

c. Early intervention services are provided to a child under this chapter;

d. Public benefits or insurance or private insurance is used if such consent is required under rule 281—120.520(34CFR303); and

e. Disclosure of personally identifiable information consistent with rule 281— 120.414(34CFR303).

120.420(2) *Parent refusal to consent.* If a parent does not give consent under paragraph 120.420(1) *"a," "b,"* or *"c,"* the agency must make reasonable efforts to ensure that the parent:

a. Is fully aware of the nature of the evaluation and assessment of the child or early intervention services that may be available; and

b. Understands that the child will not be able to receive the evaluation, assessment, or early intervention services unless consent is given.

120.420(3) *Due process procedures unavailable.* The agency may not use the due process hearing procedures under this chapter to challenge a parent's refusal to provide any consent that is required under subrule 120.420(1).

120.420(4) *Parent rights.* The parents of an infant or toddler with a disability:

a. Determine whether they, their infant or toddler with a disability, or other family members will accept or decline any Early ACCESS service under this chapter at any time, in accordance with state law; and

b. May decline a service after first accepting it, without jeopardizing other early intervention services under this chapter.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.421(34CFR303) Prior written notice and procedural safeguards notice.

120.421(1) *General.* Prior written notice must be provided to parents a reasonable time before an agency or an EIS provider proposes, or refuses, to initiate or change the identification, evaluation, or placement of the parents' infant or toddler or the provision of early intervention services to the infant or toddler with a disability and that infant's or toddler's family.

120.421(2) *Content of notice.* The notice must be in sufficient detail to inform parents about:

a. The action that is being proposed or refused;

b. The reasons for taking the action; and

c. All procedural safeguards that are available under this chapter, including a description of mediation in rule 281—120.431(34CFR303), how to file a state complaint in rules 281—120.432(34CFR303) through 281—120.434(34CFR303) and a due process complaint in the provisions adopted under subrule 120.430(4), and any timelines under those procedures.

120.421(3) *Native language.*

a. The notice must be:

(1) Written in language understandable to the general public; and

(2) Provided in the native language, as defined in rule 281—120.25(34CFR303), of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

b. If the native language or other mode of communication of the parent is not a written language, the public agency or designated EIS provider must take steps to ensure that:

(1) The notice is translated orally or by other means to the parent in the parent's native language or other mode of communication;

(2) The parent understands the notice; and

(3) There is written evidence that this subrule has been satisfied.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.422(34CFR303) Surrogate parents.

120.422(1) *General.* The department or other public agency must ensure that the rights of a child are protected when:

a. No parent (as defined in rule 281—120.27(34CFR303)) can be identified;

b. The department or AEA, after reasonable efforts, cannot locate a parent; or

c. The child is a ward of the state under the laws of the state.

120.422(2) *Duty of other public agencies.*

a. The duty of the AEA under subrule 120.422(1) includes the assignment of an individual to act as a surrogate for the parent. This assignment process must include a method for:

(1) Determining whether a child needs a surrogate parent; and

(2) Assigning a surrogate parent to the child.

b. In implementing the provisions under this rule for children who are wards of the state or placed in foster care, the AEA must consult with the public agency that has been assigned care of the child.

120.422(3) *Wards of the state.* In the case of a child who is a ward of the state, the surrogate parent, instead of being appointed by the AEA under subrule 120.422(2), may be appointed by the judge presiding over the infant's or toddler's case provided that the surrogate parent satisfies subrules 120.422(4) and 120.422(5).

120.422(4) *Criteria for selection of surrogate parents.*

a. The AEA may select a surrogate parent in any way permitted under state law.

b. The AEA must ensure that a person selected as a surrogate parent:

(1) Is not an employee of the department or any other public agency or EIS provider that provides early intervention services, education, care, or other services to the child or any family member of the child;

(2) Has no personal or professional interest that conflicts with the interest of the child the person represents; and

(3) Has knowledge and skills that ensure adequate representation of the child.

120.422(5) *Nonemployee requirement; compensation.* A person who is otherwise qualified to be a surrogate parent under subrule 120.422(4) is not an employee of the agency solely because the person is paid by the agency to serve as a surrogate parent.

120.422(6) *Surrogate parent responsibilities.* The surrogate parent has the same rights as a parent for all purposes under this chapter.

120.422(7) *Department responsibility.* The department must make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after a public agency determines that the child needs a surrogate parent.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.423 to **120.429** Reserved.

281—120.430(34CFR303) State dispute resolution options.

120.430(1) *General.* Each statewide system must include written procedures for the timely administrative resolution of complaints through mediation, state complaint procedures, and due process hearing procedures, described in subrules 120.430(2) through 120.430(6).

120.430(2) *Mediation.* The department must make available to parties to disputes involving any matter under this chapter the opportunity for mediation that satisfies rule 281—120.431(34CFR303).

120.430(3) *State complaint procedures.* The department must adopt written state complaint procedures that satisfy rule 281—120.432(34CFR303) to resolve any state complaints filed by any party regarding any violation of this chapter.

120.430(4) *Due process hearing procedures.* The department must adopt written due process hearing procedures to resolve complaints with respect to a particular child regarding any matter identified in subrule 120.421(1). The department adopts the Part C due process hearing procedures under Section 639 of the Act.

120.430(5) *Status of a child during the pendency of a due process complaint.* During the pendency of any proceeding involving a due process complaint under subrule 120.430(4), unless the agency and parents of an infant or toddler with a disability otherwise agree, the child must continue to receive the appropriate early intervention services in the setting identified in the IFSP that is consented to by the parents. If the due process complaint under subrule 120.430(4) involves an application for initial services under Part C of the Act, the child must receive those services that are not in dispute.

120.430(6) *Status of a child during the pendency of mediation.* During the pendency of any request for mediation under subrule 120.430(2) and for ten days after any such mediation conference at which no agreement is reached, unless the agency and the parents of the child agree otherwise, the child involved in any such mediation conference will continue to receive the appropriate early intervention services identified in the IFSP in the setting that is consented to by the parents. If the mediation involves an application for initial services under Part C of the Act, the child will receive those services that are not in dispute.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.431(34CFR303) Mediation.

120.431(1) *General.* The department must ensure that procedures are established and implemented to allow parties to disputes involving any matter under this chapter, including matters arising prior to the filing of a due process complaint, to resolve disputes through a mediation process at any time.

120.431(2) *Requirements.* The procedures must meet the following provisions:

a. The procedures must ensure that the mediation process:

(1) Is voluntary on the part of the parties;

(2) Is not used to deny or delay a parent's right to a due process hearing, or to deny any other rights afforded under Part C of the Act; and

(3) Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

b. The department must maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of early intervention services. The department must select mediators on a random, rotational, or other impartial basis.

c. The department must bear the cost of the mediation process, including the costs of meetings described in subrule 120.431(4).

d. Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the dispute.

e. If the parties resolve a dispute through the mediation process, the parties must execute a legally binding agreement that sets forth that resolution and that:

(1) States that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and

(2) Is signed by both the parent and a representative of the lead agency who has the authority to bind such agency.

f. A written, signed mediation agreement under this subrule is enforceable in any state court of competent jurisdiction or in a district court of the United States.

g. Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any federal court or state court of a state receiving assistance under Part C of the Act.

120.431(3) *Impartiality of mediator.*

a. An individual who serves as a mediator under this chapter:

(1) May not be an employee of the department or an EIS provider that is involved in the provision of early intervention services or other services to the child; and

(2) Must not have a personal or professional interest that conflicts with the person's objectivity.

b. An individual who otherwise qualifies as a mediator is not an employee of the department or an early intervention provider solely because the individual is paid by the agency or provider to serve as a mediator.

120.431(4) *Meeting to encourage mediation.* The department may establish procedures to offer to parents and EIS providers that choose not to use the mediation process an opportunity to meet, at a time and location convenient to the parents, with a disinterested party:

a. Who is under contract with an appropriate alternative dispute resolution entity or a parent training and information center or community parent resource center in the state established under Section 671 or 672 of the Act; and

b. Who would explain the benefits of, and encourage the use of, the mediation process to the parents.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.432(34CFR303) Adoption of state complaint procedures. The state complaint procedures in rules 281—41.151(256B,34CFR300) through 281—41.153(256B,34CFR300), inclusive, are made applicable to this chapter by reference.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.433 and **120.434** Reserved.

281—120.435(34CFR303) Appointment of an administrative law judge.

120.435(1) *Qualifications and duties.* Whenever a due process complaint is received under subrule 120.430(4), the department will appoint an impartial administrative law judge (ALJ) to implement the complaint resolution process in this chapter. The person must:

a. Have knowledge about the provisions of Part C of the Act and of this chapter and the needs of, and early intervention services available for, infants and toddlers with disabilities and their families; and

b. Perform the following duties:

(1) Listen to the presentation of relevant viewpoints about the due process complaint;

(2) Examine all information relevant to the issues;

(3) Seek to reach a timely resolution of the due process complaint; and

(4) Provide a record of the proceedings, including a written decision.

120.435(2) *Definition of "impartial."*

a. "Impartial" means that the administrative law judge appointed to implement the due process hearing under this chapter:

(1) Is not an employee of the department or other agency or EIS provider involved in the provision of early intervention services or care of the child; and

(2) Does not have a personal or professional interest that would conflict with the ALJ's objectivity in implementing the process.

b. A person who otherwise qualifies under this subrule is not an employee of an agency solely because the person is paid by the agency to implement the due process hearing procedures or mediation procedures under this chapter.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.436(34CFR303) Parental rights in due process hearing proceedings.

120.436(1) *General.* The department must ensure that the parents of a child referred to or receiving Part C services are afforded the rights in subrule 120.436(2) in the due process hearing carried out under subrule 120.430(4).

120.436(2) *Rights of parents.* Any parent involved in a due process hearing has the right to:

a. Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to early intervention services for infants and toddlers with disabilities;

b. Present evidence and confront, cross-examine, and compel the attendance of witnesses;

c. Prohibit the introduction of any evidence at the hearing that has not been disclosed to the parent at least five days before the hearing;

d. Obtain a written or electronic verbatim transcription of the hearing at no cost to the parent; and

e. Receive a written copy of the findings of fact and decisions at no cost to the parent.

120.436(3) *Other party rights.* Any public agency or EIS provider that is a party to a due process hearing under subrule 120.430(4) has each of the rights listed in subrule 120.436(2).

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.437(34CFR303) Convenience of hearings and timelines.

120.437(1) *Time and place.* Any due process hearing conducted under this chapter must be carried out at a time and place that is reasonably convenient to the parents.

120.437(2) *Timeline for ALJ decision.* The department must ensure that, not later than 30 days after the receipt of a parent's due process complaint, the due process hearing required under this chapter is completed and a written decision mailed to each of the parties.

120.437(3) *Extension of ALJ timeline.* An ALJ may grant specific extensions of time beyond the period set out in subrule 120.437(2) at the request of either party.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.438(34CFR303) Civil action. Any party aggrieved by the findings and decision issued pursuant to a due process complaint has the right to bring a civil action in state or federal court under Section 639(a)(1) of the Act.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.439(34CFR303) Limitation of actions.

120.439(1) *Limitation: due process complaints.* A parent, agency, or EIS provider must request an impartial hearing on the due process complaint within two years of the date the parent, agency, or provider knew or should have known about the alleged action that forms the basis of the due process complaint.

120.439(2) *Exceptions to timeline.* The timeline described in subrule 120.439(1) does not apply to a parent if the parent was prevented from filing a due process complaint due to either of the following:

a. Specific misrepresentations by an agency or EIS provider that it had resolved the problem forming the basis of the due process complaint; or

b. The agency's or EIS provider's withholding of information from the parent that was required under this chapter to be provided to the parent.

120.439(3) *Limitation: civil action.* The party bringing the civil action under rule 281—120.438(34CFR303) shall have 90 days from the date of the decision of the administrative law judge to file a civil action.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.440(34CFR303) Rule of construction. Nothing in this chapter restricts or limits the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990, Title V of the Rehabilitation Act of 1973, or other federal laws protecting the rights of children with

disabilities, except that, before the filing of a civil action under these laws seeking relief that is also available under Section 639 of the Act, the procedures under this chapter must be exhausted to the same extent as would be required had the action been brought under Section 639 of the Act.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.441(34CFR303) Attorney fees. Reasonable attorney fees are available to a prevailing party (parent or, in certain circumstances, public agency or EIS provider) in a due process hearing or a mediation conference to the extent those fees are available under the Act. No fees are available under the state complaint procedure in subrule 120.430(3).
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.442 to **120.448** Reserved.

281—120.449(34CFR303) State enforcement mechanisms. Notwithstanding subrule 120.431(2), which provides for judicial enforcement of a written agreement reached as a result of a mediation, there is nothing in this chapter that would prevent the state from using other mechanisms to seek enforcement of that agreement, provided that use of those mechanisms is not mandatory and does not delay or deny a party the right to seek enforcement of the written agreement in a state court of competent jurisdiction or in a district court of the United States.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.450 to **120.499** Reserved.

DIVISION VII
USE OF FUNDS; PAYOR OF LAST RESORT

281—120.500(34CFR303) Use of funds, payor of last resort, and system of payments.

120.500(1) *Statewide system.* The statewide system must include written policies and procedures that satisfy the following:

a. Use of funds provisions in rule 281—120.501(34CFR303); and

b. Payor of last resort provisions in rules 281—120.510(34CFR303) through 281—120.521(34CFR303) (regarding the identification and coordination of funding resources for, and the provision of, early intervention services under Part C of the Act within the state).

120.500(2) *System of payments.* The state may establish, consistent with subrules 120.13(1) and 120.203(2), a system of payments for early intervention services under Part C of the Act, including a schedule of sliding fees or cost participation fees (such as copayments, premiums, or deductibles) required to be paid under federal, state, local, or private programs of insurance or benefits for which the infant or toddler with a disability or the child's family is enrolled, that satisfies rules 281—120.520(34CFR303) and 281—120.521(34CFR303).
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.501(34CFR303) Permissive use of funds by the department. Consistent with rules 281—120.120(34CFR303) through 281—120.122(34CFR303) and 281—120.220(34CFR303) through 281—120.226(34CFR303), the department may use funds under this chapter for activities or expenses that are reasonable and necessary for implementing Early ACCESS, including funds:

120.501(1) For direct early intervention services for infants and toddlers with disabilities and their families under this chapter that are not otherwise funded through other public or private sources (subject to rules 281—120.510(34CFR303) through 281—120.521(34CFR303));

120.501(2) To expand and improve services for infants and toddlers with disabilities and their families under this chapter that are otherwise available; and

120.501(3) In any state that does not provide services under 34 CFR 303.204 for at-risk infants and toddlers, as defined in rule 281—120.5(34CFR303), to strengthen the statewide system by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers, including establishing

linkages with appropriate public and private community-based organizations, services, and personnel for the purposes of:

a. Identifying and evaluating at-risk infants and toddlers;

b. Making referrals for the infants and toddlers identified and evaluated under paragraph 120.501(3)*"a"*; and

c. Conducting periodic follow-up on each referral, to determine if the status of the infant or toddler involved has changed with respect to the eligibility of the infant or toddler for services under this chapter.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.502 to **120.509** Reserved.

281—120.510(34CFR303) Payor of last resort.

120.510(1) *Nonsubstitution of funds.* Except as provided in subrule 120.510(2), funds under this chapter may not be used to satisfy a financial commitment for services that would otherwise have been paid for from another public or private source, including any medical program administered by the Department of Defense, but for the enactment of Part C of the Act. Therefore, funds under this chapter may be used only for early intervention services that an infant or toddler with a disability needs but is not currently entitled to receive or have payment made from any other federal, state, local, or private source (subject to rules 281—120.520(34CFR303) and 281—120.521(34CFR303)).

120.510(2) *Interim payments—reimbursement.* If necessary to prevent a delay in the timely provision of appropriate early intervention services to a child or the child's family, funds under Part C of the Act may be used to pay the provider of services (for services and functions authorized under this chapter, including health services, as defined in rule 281—120.16(34CFR303) (but not medical services); functions of the child find system described in rules 281—120.115(34CFR303) through 281—120.117(34CFR303) and rules 281—120.301(34CFR303) through 281—120.320(34CFR303); and evaluations and assessments in rule 281—120.321(34CFR303)), pending reimbursement from the agency or entity that has ultimate responsibility for the payment.

120.510(3) *Nonreduction of benefits.* Nothing in this chapter may be construed to permit a state to reduce medical or other assistance available in the state or to alter eligibility under Title V of the Social Security Act, 42 U.S.C. 701 et seq. (SSA) (relating to maternal and child health) or Title XIX of the SSA, 42 U.S.C. 1396 (relating to Medicaid), including Section 1903(a) of the SSA regarding medical assistance for services furnished to an infant or toddler with a disability when those services are included in the child's IFSP adopted pursuant to Part C of the Act.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.511(34CFR303) Methods to ensure the provision of, and financial responsibility for, Early ACCESS services.

120.511(1) *General.* The state must ensure that it has in place methods for interagency coordination. Under these methods, the governor must ensure that the interagency agreement or other method for interagency coordination is in effect between the department and each signatory agency in order to ensure:

a. The provision of, and establishing financial responsibility for, early intervention services provided under this chapter; and

b. Such services are consistent with the requirement in Section 635 of the Act and the state's application under Section 637 of the Act, including the provision of such services during the pendency of any dispute between state agencies.

120.511(2) *Methods.* The methods in subrule 120.511(1) must satisfy this rule and be set forth in one of the following:

a. State law or rule;

b. Signed interagency and intra-agency agreements between respective agency officials that clearly identify the financial and service provision responsibilities of each agency (or entity within the agency); or

c. Other appropriate written methods determined by the governor, or the governor's designee, and approved by the Secretary through the review and approval of the state's application.

120.511(3) *Procedures for resolving disputes.*

a. Each method must include procedures for achieving a timely resolution of intra-agency and interagency disputes about payments for a given service or disputes about other matters related to Early ACCESS. Those procedures must include a mechanism for resolution of disputes within agencies and for the governor, governor's designee, or the department to make a final determination for interagency disputes, which determination must be binding upon the agencies involved.

b. The method must:

(1) Permit the agency to resolve its own internal disputes (based on the agency's procedures that are included in the agreement), so long as the agency acts in a timely manner; and

(2) Include the process that the department will follow in achieving resolution of intra-agency disputes, if a given agency is unable to resolve its own internal disputes in a timely manner.

c. If, during the department's resolution of the dispute, the governor, governor's designee, or department determines that the assignment of financial responsibility under this rule was inappropriately made:

(1) The governor, governor's designee, or department must reassign the financial responsibility to the appropriate agency; and

(2) The department must make arrangements for reimbursement of any expenditures incurred by the agency originally assigned financial responsibility.

120.511(4) *Delivery of services in a timely manner.* The methods adopted by the state under this rule must:

a. Include a mechanism to ensure that no services that a child is entitled to receive under this chapter are delayed or denied because of disputes between agencies regarding financial or other responsibilities; and

b. Be consistent with the written funding policies adopted by the state under this division and include any provisions the state has adopted under rule 281—120.520(34CFR303) regarding the use of insurance to pay for Part C services.

120.511(5) *Additional components.* Each method must include any additional components necessary to ensure effective cooperation and coordination among, and the department's general supervision (including monitoring) of, EIS providers (including all public agencies) involved in Early ACCESS.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.512 to **120.519** Reserved.

281—120.520(34CFR303) Policies related to use of public benefits or insurance or private insurance to pay for Early ACCESS services.

120.520(1) *Use of public benefits or public insurance to pay for Early ACCESS services.*

a. The state may not use the public benefits or insurance of a child or parent to pay for Part C services unless the state provides written notification, consistent with paragraph 120.521(1)*"c,"* to the child's parents, and the state meets the no-cost protections identified in paragraph 120.520(1)*"b."*

b. With regard to the state's using the public benefits or insurance of a child or parent to pay for Part C services, the state:

(1) May not require a parent to sign up for or enroll in public benefits or insurance programs as a condition of receiving Part C services and must obtain consent prior to using the public benefits or insurance of a child or parent if that child or parent is not already enrolled in such a program;

(2) Must obtain consent, consistent with rule 281—120.7(34CFR303) and subrule 120.420(1), to use a child's or parent's public benefits or insurance to pay for Part C services if that use would:

1. Decrease available lifetime coverage or any other insured benefit for that child or parent under that program;

2. Result in the child's parents paying for services that would otherwise be covered by the public benefits or insurance program;

3. Result in any increase in premiums or discontinuation of public benefits or insurance for that child or that child's parents; or

4. Risk loss of eligibility for the child or that child's parents for home- and community-based waivers based on aggregate health-related expenditures.

(3) If the parent does not provide consent under paragraph 120.520(1)*"b,"* the state must still make available those Part C services on the IFSP to which the parent has provided consent.

c. Prior to the state's using a child's or parent's public benefits or insurance to pay for Part C services, the state must provide written notification to the child's parents. The notification must include:

(1) A statement that parental consent must be obtained under rule 281—120.414(34CFR303), if that rule applies, before the department or EIS provider discloses, for billing purposes, a child's personally identifiable information to the department of health and human services, the state public agency responsible for the administration of the state's public benefits or insurance program (e.g., Medicaid);

(2) A statement of the no-cost protection provisions in subrule 120.520(1) and that if the parent does not provide the consent under that subrule, the agency must still make available those Part C services on the IFSP for which the parent has provided consent;

(3) A statement that the parents have the right under rule 281—120.414(34CFR303), if that rule applies, to withdraw their consent to disclosure of personally identifiable information to the department of health and human services, the state public agency responsible for the administration of the state's public benefits or insurance program (e.g., Medicaid) at any time; and

(4) A statement of the general categories of costs that the parent would incur as a result of participating in a public benefits or insurance program (such as copayments or deductibles, or the required use of private insurance as the primary insurance).

d. If a state requires a parent to pay any costs that the parent would incur as a result of the state's using a child's or parent's public benefits or insurance to pay for Part C services (such as copayments or deductibles, or the required use of private insurance as the primary insurance), those costs must be identified in the state's system of payments policies under rule 281—120.521(34CFR303) and included in the notification provided to the parent under paragraph 120.520(1)*"c"*; otherwise, the state cannot charge those costs to the parent.

120.520(2) *Use of private insurance to pay for Part C services.*

a. The state may not use the private insurance of a parent of an infant or toddler with a disability to pay for Part C services unless the parent provides parental consent, consistent with rule 281—120.7(34CFR303) and subrule 120.420(1), to use private insurance to pay for Part C services for the parent's child or the state meets one of the exceptions in paragraph 120.520(2)*"d."* This includes the use of private insurance when such use is a prerequisite for the use of public benefits or insurance. Parental consent must be obtained:

(1) When an agency or EIS provider seeks to use the parent's private insurance or benefits to pay for the initial provision of an early intervention service in the IFSP; and

(2) Each time consent for services is required under subrule 120.420(1) due to an increase (in frequency, length, duration, or intensity) in the provision of services in the child's IFSP.

b. If a state requires a parent to pay any costs that the parent would incur as a result of the state's use of private insurance to pay for early intervention services (such as copayments, premiums, or deductibles), those costs must be identified in the state's system of payments policies under rule 281—120.521(34CFR303); otherwise, the state may not charge those costs to the parent.

c. When obtaining parental consent required under paragraph 120.520(2)*"a"* or initially using benefits under a child's or parent's private insurance policy to pay for an early intervention service under paragraph 120.520(2)*"d,"* the state must provide to the parent a copy of the state's system of payments policies that identifies the potential costs that the parent may incur when the parent's private insurance is used to pay for early intervention services under this chapter (such as copayments, premiums, or deductibles or other long-term costs such as the loss of benefits because of annual or lifetime health insurance coverage caps under the insurance policy).

d. The parental consent requirements in paragraphs 120.520(2)*"a"* through *"c"* do not apply if the state has enacted a state statute regarding private health insurance coverage for early intervention services under Part C of the Act that expressly provides that:

(1) The use of private health insurance to pay for Part C services cannot count towards or result in a loss of benefits due to the annual or lifetime health insurance coverage caps for the infant or toddler with a disability, the parent, or the child's family members who are covered under that health insurance policy;

(2) The use of private health insurance to pay for Part C services cannot negatively affect the availability of health insurance to the infant or toddler with a disability, the parent, or the child's family members who are covered under that health insurance policy, and health insurance coverage may not be discontinued for these individuals due to the use of the health insurance to pay for services under Part C of the Act; and

(3) The use of private health insurance to pay for Part C services cannot be the basis for increasing the health insurance premiums of the infant or toddler with a disability, the parent, or the child's family members covered under that health insurance policy.

e. If the state has enacted a state statute that satisfies paragraph 120.520(2)*"d,"* regarding the use of private health insurance coverage to pay for early intervention services under Part C of the Act, the state may reestablish a new baseline of state and local expenditures under subrule 120.225(2) in the next federal fiscal year following the effective date of the statute.

120.520(3) *Inability to pay.* If a parent or family of an infant or toddler with a disability is determined unable to pay under the state's definition of inability to pay under subrule 120.521(1) and does not provide consent under paragraphs 120.520(2)*"a"* and *"b,"* the lack of consent may not be used to delay or deny any services under this chapter to that child or family.

120.520(4) *Proceeds or funds from public insurance or benefits or from private insurance.*

a. Proceeds or funds from public insurance or benefits or from private insurance are not treated as program income for purposes of 34 CFR 80.25.

b. If the state receives reimbursements from federal funds (e.g., Medicaid reimbursements attributable directly to federal funds) for services under Part C of the Act, those funds are considered neither state nor local funds under subrule 120.225(2).

c. If the state spends funds from private insurance for services under this chapter, those funds are considered neither state nor local funds under rule 281—120.225(34CFR303).

120.520(5) *Funds received from a parent or family member under the state's system of payments.* Funds received by the state from a parent or family member under the state's system of payments established under rule 281—120.521(34CFR303) are considered program income under 34 CFR 80.25. These funds:

a. Are not deducted from the total allowable costs charged under Part C of the Act (as set forth in 34 CFR 80.25(g)(1));

b. Must be used for the state's Part C early intervention service program, consistent with 34 CFR 80.25(g)(2); and

c. Are considered neither state nor local funds under subrule 120.225(2).

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.521(34CFR303) System of payments and fees.

120.521(1) *General.* If a state elects to adopt a system of payments in subrule 120.500(2), the state's system of payments policies must be in writing and specify which functions or services, if any, are subject to the system of payments (including any fees charged to the family as a result of using one or more of the family's public insurance or benefits or private insurance), and include:

a. The payment system and schedule of sliding or cost participation fees that may be charged to the parent for early intervention services under this chapter;

b. The basis and amount of payments or fees;

c. The state's definition of ability to pay (including its definition of income and family expenses, such as extraordinary medical expenses), its definition of inability to pay, and when and how the state makes its determination of the ability or inability to pay;

d. An assurance that:

(1) Fees will not be charged to parents for the services that a child is otherwise entitled to receive at no cost (including those services identified under this subrule and subrules 120.521(2) and 120.521(3));

(2) The inability of the parents of an infant or toddler with a disability to pay for services will not result in a delay or denial of services under this chapter to the child or the child's family such that, if the parent or family meets the state's definition of inability to pay, the infant or toddler with a disability must be provided all Part C services at no cost;

(3) Families will not be charged any more than the actual cost of the Part C service (factoring in any amount received from other sources for payment for that service); and

(4) Families with public insurance or benefits or private insurance will not be charged disproportionately more than families who do not have public insurance or benefits or private insurance;

e. Provisions stating that the failure to provide the requisite income information and documentation may result in a charge of a fee on the fee schedule and specify the fee to be charged; and

f. Provisions that permit, but do not require, the department or other relevant agency to use Part C or other funds to pay for costs such as the premiums, deductibles, or copayments.

120.521(2) *Functions not subject to fees.* The following are required functions that must be carried out at public expense, and for which no fees may be charged to parents:

a. Implementing the child find requirements in rules 281—120.301(34CFR303) through 281—120.303(34CFR303).

b. Evaluation and assessment, in accordance with rule 281—120.320(34CFR303), and the functions related to evaluation and assessment in subrule 120.13(2).

c. Service coordination services, as defined in subrule 120.13(2) and rule 281—120.33(34CFR303).

d. Administrative and coordinative activities related to:

(1) The development, review, and evaluation of IFSPs and interim IFSPs in accordance with rules 281—120.342(34CFR303) through 281—120.345(34CFR303); and

(2) Implementation of the procedural safeguards in Division VI of this chapter and the other components of the statewide system of early intervention services in Division V of this chapter and this division.

120.521(3) *FAPE mandates or use of funds under Part B of the Act to serve children under age three.* If the state has in effect a state law requiring the provision of FAPE for, or uses Part B funds to serve, an infant or toddler with a disability under the age of three (or any subset of infants and toddlers with disabilities under the age of three), the state may not charge the parents of the infant or toddler with a disability for any services (e.g., physical or occupational therapy) under this chapter that are part of FAPE for that infant or toddler and the child's family, and those FAPE services must meet the provisions of both Parts B and C of the Act.

120.521(4) *Family fees.*

a. Fees or costs collected from a parent or the child's family to pay for early intervention services under the state's system of payments are program income under 34 CFR 80.25. The state may add this program income to its Part C grant funds, rather than deducting the program income from the amount of the state's Part C grant. Any fees collected must be used for the purposes of the grant under Part C of the Act.

b. Fees collected under a system of payments are considered neither state nor local funds under subrule 120.225(2).

120.521(5) *Procedural safeguards.*

a. The state's system of payments must include written policies to inform parents that a parent who wishes to contest the imposition of a fee, or the state's determination of the parent's ability to pay, may do one of the following:

(1) Participate in mediation in accordance with rule 281—120.431(34CFR303).

(2) Request a due process hearing under rule 281—120.436(34CFR303).

(3) File a state complaint under rule 281—120.434(34CFR303).

(4) Use any other procedure established by the state for speedy resolution of financial claims, provided that such use does not delay or deny the parent's procedural rights under this chapter, including the right to pursue, in a timely manner, the redress options described in this subrule.

b. The state must inform parents of these procedural safeguard options by either:

(1) Providing parents with a copy of the state's system of payments policies when obtaining consent for provision of early intervention services under subrule 120.420(1); or

(2) Including this information with the notice provided to parents under rule 281—120.421(34CFR303).

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.522 to **120.599** Reserved.

DIVISION VIII
STATE INTERAGENCY COORDINATING COUNCIL

281—120.600(34CFR303) Establishment of council.

120.600(1) *General.* The state establishes a state interagency coordinating council, as defined in rule 281—120.8(34CFR303).

120.600(2) *Appointment.* The council must be appointed by the governor. The governor must ensure that the membership of the council reasonably represents the population of the state.

120.600(3) *Chairperson.* The governor must designate a member of the council to serve as the chairperson of the council or delegate that responsibility to the members of the council. Any member of the council who is a representative of the lead agency designated under rule 281—120.201(34CFR303) may not serve as the chairperson of the council.

120.600(4) *Name of council.* The council established by this division shall be known as the Iowa council for Early ACCESS (council).

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.601(34CFR303) Composition.

120.601(1) *General.* The council must be composed as follows:

a. At least 20 percent of the members must be parents, including minority parents, of infants or toddlers with disabilities or children with disabilities aged 12 years or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities. At least one parent member must be a parent of an infant or toddler with a disability or a child with a disability aged 6 years or younger.

b. At least 20 percent of the members must be public or private providers of early intervention services.

c. At least one member must be from the state legislature.

d. At least one member must be involved in personnel preparation.

e. At least one member must:

(1) Be from each of the state agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families; and

(2) Have sufficient authority to engage in policy planning and implementation on behalf of these agencies.

f. At least one member must:

(1) Be from the unit of the department responsible for preschool services to children with disabilities; and

(2) Have sufficient authority to engage in policy planning and implementation on behalf of the department.

g. At least one member must be from the agency responsible for the state Medicaid program and CHIP.

h. At least one member must be from a Head Start or Early Head Start agency or program in the state.

i. At least one member must be from a state agency responsible for child care.

j. At least one member must be from the agency responsible for the state regulation of private health insurance.

k. At least one member must be a representative designated by the Office of the Coordination of Education of Homeless Children and Youth.

l. At least one member must be a representative from the state child welfare agency responsible for foster care.

m. At least one member must be from the state agency responsible for children's mental health.

120.601(2) *Members serving more than one role.* The governor may appoint one member to represent more than one program or agency listed in paragraphs 120.601(1)*"g"* through *"m."*

120.601(3) *Additional members permitted.* The council may include other members selected by the governor, including a representative from the Bureau of Indian Education (BIE) or, where there is no school operated or funded by the BIE in the state, from the Indian Health Service or the tribe or tribal council.

120.601(4) *Limitation on voting: conflict of interest.* No member of the council may cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under state law.

120.601(5) *Executive committee; other committees.* The executive committee shall consist of the council chairperson; the vice-chairperson; at least two council members, one of whom is a parent; and a council representative from each of the signatory agencies. The department's Early ACCESS program coordinator shall be an ex officio member of the executive committee. The executive committee is responsible for initially reviewing and discussing information and issues that will be addressed by the full council; establishing the framework for overall council business, including the calendar of meetings and the agenda for council meetings; and facilitating the implementation of the interagency agreement among the signatory agencies. The council may establish or dissolve other standing or ad hoc committees from time to time and in the furtherance of its work.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.602(34CFR303) Meetings.

120.602(1) *Minimum number of meetings.* The council will meet, at a minimum, on a quarterly basis, and in such places as it determines necessary.

120.602(2) *Requirements for meetings.* The meetings must:

a. Be publicly announced sufficiently in advance of the dates they are to be held to ensure that all interested parties have an opportunity to attend;

b. To the extent appropriate, be open and accessible to the general public; and

c. As needed, provide for interpreters for persons who are deaf or hard of hearing and other necessary services for council members and participants. The council may use funds under this chapter to pay for those services.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.603(34CFR303) Use of funds by the council.

120.603(1) *General.* Subject to the approval by the governor, the council may use funds under this chapter to:

a. Conduct hearings and forums;

b. Reimburse members of the council for reasonable and necessary expenses for attending council meetings and performing council duties (including child care for parent representatives);

c. Pay compensation to a member of the council if the member is not employed or must forfeit wages from other employment when performing official council business;

d. Hire staff; and

e. Obtain the services of professional, technical, and clerical personnel as may be necessary to carry out the performance of its functions under Part C of the Act.

120.603(2) *No compensation for members.* Except as provided in subrule 120.603(1), council members must serve without compensation from funds available under Part C of the Act.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.604(34CFR303) Functions of the council; required duties.

120.604(1) *Advising and assisting the department.* The council must advise and assist the department in the performance of the department's responsibilities in Section 635(a)(10) of the Act, including:

a. Identification of sources of fiscal and other support for services for early intervention service programs under Part C of the Act;

b. Assignment of financial responsibility to the appropriate agency;

c. Promotion of methods (including use of intra-agency and interagency agreements) for intra-agency and interagency collaboration regarding child find under rules 281—120.115(34CFR303) and

281—120.302(34CFR303), monitoring and enforcement under rules 281—120.120(34CFR303) and 281—120.700(34CFR303) through 281—120.708(34CFR303), financial responsibility and provision of early intervention services under rules 281—120.202(34CFR303) and 281—120.511(34CFR303), and transition under rule 281—120.209(34CFR303); and

d. Preparation of applications under this chapter and amendments to those applications.

120.604(2) *Advising and assisting on transition.* The council must advise and assist the department regarding the transition of toddlers with disabilities to preschool and other appropriate services.

120.604(3) *Annual report to the governor and to the Secretary.*

a. The council must:

(1) Prepare and submit an annual report to the governor and to the Secretary on the status of early intervention service programs for infants and toddlers with disabilities and their families under Part C of the Act operated within the state; and

(2) Submit the report to the Secretary by a date that the Secretary establishes.

b. Each annual report must contain the information required by the Secretary for the year for which the report is made.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.605(34CFR303) Authorized activities by the council. The council may carry out the following activities:

120.605(1) Advise and assist the department regarding the provision of appropriate services for children with disabilities from birth through age five.

120.605(2) Advise appropriate agencies in the state with respect to the integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families, regardless of whether at-risk infants and toddlers are eligible for early intervention services in the state.

120.605(3) Coordinate and collaborate with the state advisory council on early childhood education and care for children, as described in Section 642B(b)(1)(A)(i) of the Head Start Act, 42 U.S.C. 9837b(b)(1)(A)(i), if applicable, and other state interagency early learning initiatives, as appropriate.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.606 to **120.699** Reserved.

DIVISION IX
FEDERAL AND STATE MONITORING AND ENFORCEMENT;
REPORTING; AND ALLOCATION OF FUNDS

281—120.700(34CFR303) State monitoring and enforcement.

120.700(1) *General.* The department must:

a. Monitor the implementation of this chapter;

b. Make determinations annually about the performance of each EIS program, using the categories identified in subrule 120.703(2);

c. Enforce this chapter consistent with rule 281—120.704(34CFR303), using appropriate enforcement mechanisms listed therein; and

d. Report annually on the performance of the state and of each EIS program under this chapter as provided in rule 281—120.702(34CFR303).

120.700(2) *Primary focus of monitoring activity.* The primary focus of the state's monitoring activities must be on:

a. Improving early intervention results and functional outcomes for all infants and toddlers with disabilities; and

b. Ensuring that EIS programs meet the program requirements under Part C of the Act, with a particular emphasis on those requirements that are most closely related to improving early intervention results for infants and toddlers with disabilities.

120.700(3) *Indicators of performance and compliance.* As a part of its responsibilities under subrule 120.700(1), the state must use quantifiable indicators and such qualitative indicators as are needed to

adequately measure performance in the priority areas identified in subrule 120.700(4), and the indicators established by the Secretary for the state performance plans.

120.700(4) *Monitoring; priority areas.* The department must monitor each EIS program located in the state, using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measure performance in those areas:

a. Early intervention services in natural environments.

b. State exercise of general supervision, including child find, effective monitoring, mediation, and a system of transition services as defined in Section 637(a)(9) of the Act.

120.700(5) *Correction of noncompliance.* In exercising its monitoring responsibilities under subrule 120.700(4), the state must ensure that when it identifies noncompliance with this chapter by EIS programs and providers, the noncompliance is corrected as soon as possible and in no case later than one year after the state's identification of the noncompliance.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.701(34CFR303) State performance plans and data collection.

120.701(1) *General.* The state must have in place a performance plan that satisfies Section 616 of the Act; is approved by the Secretary; and includes an evaluation of the state's efforts to implement the requirements and purposes of Part C of the Act, a description of how the state will improve implementation, and measurable and rigorous targets for the indicators established by the Secretary under the priority areas described in 34 CFR 303.700(d).

120.701(2) *Review of state performance plan.* The state must review its state performance plan at least once every six years and submit any amendments to the Secretary.

120.701(3) *Data collection.*

a. The state must collect valid and reliable information as needed to report annually to the Secretary on the indicators established by the Secretary for the state performance plans.

b. If the Secretary permits states to collect data on specific indicators through state monitoring or sampling, and the state collects data for a particular indicator through state monitoring or sampling, the state must collect and report data on those indicators for each EIS program at least once during the six-year period of a state performance plan.

c. Nothing in Part C of the Act or this chapter may be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collections of data under Part C of the Act.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.702(34CFR303) State use of targets and reporting.

120.702(1) *General.* The state must use the targets established in the state's performance plan under rule 281—120.701(34CFR303) and the priority areas described in subrule 120.700(4) to analyze the performance of each EIS program in implementing Part C of the Act.

120.702(2) *Public reporting and privacy.*

a. Public report. The state must:

(1) Report annually to the public on the performance of each EIS program located in the state on the targets in the state's performance plan as soon as practicable but no later than 120 days following the state's submission of its annual performance report to the Secretary under paragraph 120.702(2)*"b"*; and

(2) Make the state's performance plan under subrule 120.701(1), annual performance reports under this subrule, and the state's annual reports on the performance of each EIS program under this subrule available through public means, including by posting on the department's website, distribution to the media, and distribution to EIS programs.

(3) If the state, in satisfying this subrule, collects data through state monitoring or sampling, the state must include in its public report on EIS programs under this subrule the most recently available performance data on each EIS program and the date the data were collected.

b. State performance report. The state must report annually to the Secretary on the performance of the state under the state's performance plan.

c. Privacy. The state must not report to the public or the Secretary any information on performance that would result in the disclosure of personally identifiable information about individual children, or where the available data are insufficient to yield statistically reliable information.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.703(34CFR303) Department review and determination regarding EIS program performance.

120.703(1) *Review.* The department shall annually review the performance of each EIS provider, including but not limited to data on indicators identified in the state's performance plan, information obtained through monitoring visits, and any other public information made available.

120.703(2) *Determination.* Based on the information provided in subrule 120.703(1) to the department, the department shall determine if each EIS provider:

a. Meets the requirements and purposes of Part C of the Act;

b. Needs assistance in implementing the requirements of Part C of the Act;

c. Needs intervention in implementing the requirements of Part C of the Act; or

d. Needs substantial intervention in implementing the requirements of Part C of the Act.

120.703(3) *Notice and opportunity for a hearing.* For determinations made under paragraphs 120.703(2)*"c"* and *"d,"* the department shall provide reasonable notice of its determination and may, in its sound discretion, grant an informal hearing to the EIS provider; however, if withholding of funds is a remedy associated with any particular determination, the department shall provide a hearing under rule 281—120.705(34CFR303). Under any hearing granted under this subrule or rule 281—120.705(34CFR303), the EIS provider must demonstrate that the department abused its discretion in making the determination described in subrule 120.703(2).

120.703(4) *Criteria for determinations.* The department shall develop criteria for making the determinations required by subrule 120.703(2).

120.703(5) *Adjustment or variance of determination.* In making the determination required by subrule 120.703(2), the department in its discretion may adjust or vary from the criteria described in subrule 120.703(4) based on unusual, unanticipated, or extraordinary aggravating or mitigating measures, on a case-by-case basis.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.704(34CFR303) Enforcement.

120.704(1) *Needs assistance.* If the department determines, for two consecutive years, that an EIS provider needs assistance under paragraph 120.703(2)*"b"* in implementing the requirements of Part C of the Act, the department shall take one or more of the following actions:

a. Advise the EIS provider of available sources of technical assistance that may help the EIS provider address the areas in which the provider needs assistance, which may include assistance from the Office of Special Education Programs, other offices of the U.S. Department of Education, other federal agencies, technical assistance providers approved by the Secretary or the department, and other federally funded nonprofit agencies, and require the EIS provider to work with appropriate entities. This technical assistance may include:

(1) The provision of advice by experts to address the areas in which the EIS provider needs assistance, including explicit plans for addressing the areas of concern within a specified period of time;

(2) Assistance in identifying and implementing professional development, early intervention service provision strategies, and methods of early intervention service provision that are based on scientifically based research;

(3) Designating and using administrators, service coordinators, service providers, and other personnel from the EIS program to provide advice, technical assistance, and support; and

(4) Devising additional approaches to providing technical assistance, such as collaborating with institutions of higher education, educational service agencies, national centers of technical assistance supported under Part D of the Act, and private providers of scientifically based technical assistance.

b. Identify the EIS provider as a high-risk grantee and impose special conditions on the provider's grant under this chapter.

120.704(2) *Needs intervention.* If the department determines, for three or more consecutive years, that an EIS provider needs intervention under paragraph 120.703(2)*"c"* in implementing the requirements of Part C of the Act, the following apply:

a. The department may take any of the actions described in subrule 120.704(1).

b. The department shall take one or both of the following actions:

(1) Require the EIS provider to prepare a corrective action plan or improvement plan if the department determines that the EIS provider should be able to correct the problem within one year.

(2) Withhold, in whole or in part, any further payments to the EIS provider under Part C of the Act.

120.704(3) *Needs substantial intervention.* Notwithstanding subrules 120.704(1) and 120.704(2), at any time that the department determines that an EIS provider needs substantial intervention in implementing the requirements of Part C of the Act or that there is a substantial failure to comply with any requirement under Part C of the Act by an EIS program, the department shall withhold, in whole or in part, any further payments to the EIS provider under Part C of the Act. In addition, the department may refer the matter to appropriate authorities, which include but are not limited to the Iowa department of justice or the auditor of state.

120.704(4) *Rule of construction.* The listing of specific enforcement mechanisms in this rule shall not be construed to limit the enforcement mechanisms at the department's disposal in its enforcement of this rule or any other rule in this chapter.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.705(34CFR303) Withholding funds.

120.705(1) *General.* As a consequence of a determination made under rule 281— 120.703(34CFR303) or enforcement of any provision of Part C of the Act and this chapter, the department may withhold some or all of the funds from an EIS provider or a program or service of an EIS provider.

120.705(2) *Hearing.* If the department intends to withhold funds, it shall provide notice and an opportunity for a hearing to an EIS provider. If a hearing is requested, the department may suspend payments to the EIS provider, suspend the authority of the EIS provider to obligate funds, or both, until a decision is made after the hearing. A hearing under this rule, which shall not be a contested case under Iowa Code chapter 17A, shall be requested within 30 days of notice of withholding by requesting a hearing before the director of the Iowa department of education or the director's designee. The presiding officer at the hearing shall consider the purposes of Part C of the Act and of this chapter and shall determine whether the state abused its discretion in its decision under subrule 120.705(1).

120.705(3) *Reinstatement.* If the EIS provider substantially rectifies the condition that prompted the initial withholding under subrule 120.705(1), then the department may reinstate payments. If an EIS provider disagrees with the department's decision that the provider has not substantially rectified the condition that prompted the initial withholding under subrule 120.705(1), the provider may request a hearing under subrule 120.705(2).

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.706(34CFR303) Public attention. Whenever the state receives notice that the Secretary is proposing to take or is taking an enforcement action pursuant to 34 CFR §303.704, the state must, by means of a public notice, take such measures as may be necessary to bring the pendency of an action pursuant to Section 616(e) of the Act and 34 CFR §303.704 to the attention of the public within the state, including by posting the notice on the department's website and distributing the notice to the media and to EIS programs.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.707 Reserved.

281—120.708(34CFR303) State enforcement. Nothing in this division may be construed to restrict the state from utilizing any other authority available to it to monitor and enforce the Act.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.709(34CFR303) State consideration of other state or federal laws. In making the determinations required by subrule 120.703(2), in taking actions pursuant to rule 281—120.704(34CFR303), and in taking any other action under this chapter, the department may consider whether any agency or provider has complied with any other applicable state or federal law, including education law or disability law, or with any corrective action ordered by any competent authority for violation of such a law.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.710 to **120.719** Reserved.

281—120.720(34CFR303) Data requirements—general.

120.720(1) *General.* The department must annually report to the Secretary and to the public on the information required by Section 618 of the Act at the times specified by the Secretary.

120.720(2) *Manner of reporting.* The department must submit the report to the Secretary in the manner prescribed by the Secretary.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.721(34CFR303) Annual report of children served—report requirement.

120.721(1) *Date of count.* For the purposes of the annual report required by Section 618 of the Act and rule 281—120.720(34CFR303), the department must count and report the number of infants and toddlers receiving early intervention services on any date between October 1 and December 1 of each year.

120.721(2) *Information in report.* The report must include:

a. The number and percentage of infants and toddlers with disabilities in the state, by race, gender, and ethnicity, who are receiving early intervention services (and include in this number any children reported to the department by tribes, tribal organizations, and consortia under 34 CFR 303.731(e)(1));

b. The number and percentage of infants and toddlers with disabilities, by race, gender, and ethnicity, who, from birth through age two, stopped receiving early intervention services because of program completion or for other reasons; and

c. The number and percentage of at-risk infants and toddlers (as defined in Section 632(1) of the Act), by race and ethnicity, who are receiving early intervention services under Part C of the Act.

120.721(3) Reserved.

120.721(4) *Dispute prevention and resolution data.* The report shall include the number of due process complaints filed under Section 615 of the Act, the number of hearings conducted and the number of mediations held, and the number of settlement agreements reached through such mediations.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.722(34CFR303) Data reporting.

120.722(1) *Protection of identifiable data.* The data described in Section 618(a) of the Act and in rule 281—120.721(34CFR303) must be publicly reported by the state in a manner that does not result in disclosure of data identifiable to individual children.

120.722(2) *Sampling.* If permitted by the Secretary, the state may obtain data in Section 618(a) of the Act through sampling.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.723(34CFR303) Annual report of children served—certification. The department must include in its report a certification signed by an authorized official of the department that the information provided under rule 281—120.721(34CFR303) is an accurate and unduplicated count of infants and toddlers with disabilities receiving early intervention services.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.724(34CFR303) Annual report of children served—other responsibilities of the department. In addition to meeting the requirements of rules 281—120.721(34CFR303) through 281—120.723(34CFR303), the department must conduct its own child count or use EIS providers to complete its child count. If the department uses EIS providers to complete its child count, then the

department must establish procedures to be used by EIS providers in counting the number of children with disabilities receiving early intervention services; establish dates by which those EIS providers must report to the department to ensure that the state complies with subrule 120.721(1); obtain certification from each EIS provider that an unduplicated and accurate count has been made; aggregate the data from the count obtained from each EIS provider and prepare the report required under rules 281—120.721(34CFR303) through 281—120.723(34CFR303); and ensure that documentation is maintained to enable the department and the Secretary to audit the accuracy of the count.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.725 to **120.800** Reserved.

DIVISION X
OTHER PROVISIONS

281—120.801(34CFR303) Early ACCESS system—state level.

120.801(1) *Lead agency.* The Iowa department of education was appointed lead agency on June 24, 1987. Responsibilities of the lead agency include:

a. Developing and implementing policies and procedures regarding the types of information to be gathered and the policies and parameters for sharing of information across agencies and programs, as well as such information that might be necessary for an annual report to the governor and the U.S. Department of Education;

b. Monitoring the agencies, institutions and organizations that provide early intervention services and supports;

c. Enforcing any obligations imposed under Part C of the Act on the agencies listed in paragraph 120.801(1)*"b"*;

d. Providing technical assistance, if necessary, to the agencies, institutions and organizations listed in paragraph 120.801(1)*"b"*;

e. Correcting deficiencies that are identified through monitoring;

f. Adopting and carrying out complaint procedures;

g. Mediating any interagency disputes regarding early intervention services;

h. Establishing policies related to how early intervention services to eligible children and their families shall be paid for;

i. Establishing procedures to ensure the timely provision of services;

j. Ensuring that the following functions and services are provided at public expense:

(1) Child find requirements;

(2) Evaluation and assessment functions;

(3) Service coordination;

(4) Development and review of IFSPs;

(5) Implementation of procedural safeguards; and

(6) Other components of the statewide system of Early ACCESS;

k. Maintaining a data system to be utilized for gathering information regarding early intervention services provided for eligible children in Early ACCESS; and

l. Monitoring use of funds.

120.801(2) *Signatory agencies.* The department of education, the department of health and human services, and the child health specialty clinics shall enter into an interagency agreement to formalize their joint commitments to the establishment and ongoing implementation and evaluation of a comprehensive, integrated, interagency Early ACCESS system. The Iowa department of education is responsible for providing education programs and services for preschool and school-age students, including children with disabilities, from birth through 21 years of age. The Iowa department of health and human services administers social service programs in order to help and empower individuals and families to become increasingly self-sufficient and productive and administers public health programs in order to promote and

protect the health of Iowans. The child health specialty clinics are the statewide public health program for children with special health care needs, as designated by the legislature.

120.801(3) *Interagency agreement.* In addition to the requirements set forth elsewhere in this chapter, the agreement between signatory agencies shall outline the commitment of these agencies to the implementation of an interagency, integrated system of Early ACCESS and:

a. Reflect the interagency vision and guiding principles of Early ACCESS;
b. Define the population to be served;
c. Identify roles, responsibilities and expectations of the signatory agencies;
d. Outline financial responsibilities of the signatory agencies;
e. Describe parameters for policy development and management decisions;
f. Describe procedures for resolving disputes;
g. Identify transition activities from Part C services;
h. Describe child find efforts; and
i. Describe the roles and responsibilities of the signatory agencies and assigned staff.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.802(34CFR303) Interagency service planning. An IFSP process shall be developed by the lead agency and shall be reviewed and approved by the signatory agencies. The process shall be used by all signatory agencies to document the ongoing work between families and providers across all agencies that are providing a service or resource to meet identified needs.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.803(34CFR303) System-level disputes. System-level disputes involve conflicts over the roles or responsibilities of an agency partner within the Early ACCESS system. System-level disputes may involve financial matters, the implementation of Early ACCESS system aspects that are not law or rules, such as interagency agreements and policies and procedures, or the implementation of provisions of the interagency agreement. The interagency agreement shall detail the resolution of informal and formal intra-agency and interagency system-level disputes.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.804(34CFR303) Early ACCESS system—regional and community levels.

120.804(1) *Early ACCESS grantees.* Early ACCESS grantees shall have the fiscal and legal obligation for ensuring that the Early ACCESS system is carried out regionally. Early ACCESS grantees shall be designated by the department and shall exist, at a minimum, in geographic areas that ensure statewide coverage as determined by the department.

a. Policies. Each grantee shall establish in accordance with this chapter the policies pertinent to a regional Early ACCESS system and shall make such policies available to the department upon request. At a minimum, such policies shall include the following:

(1) Policy to ensure that appropriate early intervention services are available to all eligible children in the state and their families, including Indian infants and toddlers and their families residing on a reservation or settlement geographically located in the state;

(2) Policy to ensure that all infants and toddlers in the state who are eligible for services under this chapter are identified, located, and evaluated and that an effective method to determine which children are receiving needed early intervention services is developed and implemented;

(3) Policy regarding the development and implementation of individualized family service plans;

(4) Policy for the establishment and maintenance of standards to ensure that personnel necessary to carry out the requirements of this chapter are appropriately and adequately prepared and trained;

(5) Policy pertaining to contracting or making other arrangements with public or private service providers to provide early intervention services and service coordination;

(6) Policy to ensure a smooth transition to preschool or other appropriate services for children receiving early intervention services under this chapter; and

(7) Any other policy required to carry out the purposes of this chapter.

b. Procedures. Each grantee shall develop, in accordance with this chapter, written procedures pertinent to the implementation of a regional Early ACCESS system, and shall make such procedures available to the department upon request. At a minimum, such procedures shall include the following:

(1) Procedures to ensure that all infants and toddlers who are eligible for services under this chapter are identified, located, and evaluated and that an effective method to determine which children are receiving needed early intervention services is developed and implemented;

(2) Procedures for use by primary referral sources for referring a child to the appropriate public agency within the system for evaluation and assessment or, as appropriate, the provision of services;

(3) Procedures to ensure provision of early intervention services and service coordination, including the appointment of service coordinators;

(4) Procedures to ensure documentation and the development and implementation of an interim IFSP, when circumstances warrant under this chapter;

(5) Procedures for conducting nondiscriminatory evaluation and assessment;

(6) Procedures for the development and implementation of individualized family service plans;

(7) Procedures for the establishment and maintenance of standards to ensure that personnel necessary to carry out the purposes of this chapter are appropriately and adequately prepared and trained;

(8) Procedures for ensuring procedural safeguards that meet the requirements of this chapter;

(9) Procedures for ensuring maintenance and confidentiality of records;

(10) Procedures to allow parties to disputes to resolve the disputes through a mediation process;

(11) Procedures for providing mediation for the timely administrative resolution of complaints by parents regarding an individual child;

(12) Procedures for resolving a complaint that any public agency is violating a requirement of Part C of the Act;

(13) Procedures related to how services to eligible children and their families will be paid for under the state's Early ACCESS program;

(14) Procedures for the timely provision of services, ensuring that no service to which a child is entitled is delayed or denied because of disputes between agencies regarding financial or other responsibilities;

(15) Procedures for resolving intra-agency and interagency disputes about payments for a given service or about other matters related to the state's Early ACCESS program in accordance with any applicable interagency agreement and with this chapter;

(16) Procedures to ensure that services are provided to eligible children and their families in a timely manner pending the resolution of disputes among public agencies or service providers;

(17) Procedures for securing the timely reimbursement of funds; and

(18) Any other procedures required to carry out the purposes of this chapter.

c. Collaboration. Early ACCESS grantees shall collaborate with local representatives of signatory agencies, community partners, and families in the development, implementation and monitoring of policies and procedures described in this rule. Early ACCESS grantees shall designate an individual who has primary responsibility for coordinating regional implementation and serving as a liaison to the department.

120.804(2) *Community partners.* Community partners include state and local representatives of signatory agencies, as well as other regional and community agencies and providers, public and private, including physicians, Early Head Start, child care providers, early childhood Iowa areas, and health programs, that work with Early ACCESS when providing early intervention services or other supports such as supporting family participation in improving the Early ACCESS system, early identification of eligible children, service coordination, provision of other needed services or resources, and other efforts to improve the Early ACCESS system.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.805(34CFR303) Provision of year-round services. Each Early ACCESS grantee shall ensure that Early ACCESS components and services are available 12 months a year to meet the needs of eligible children and their families.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.806(34CFR303) Evaluation and improvement. Each grantee, in conjunction with signatory agencies or the department, or both, will implement activities designed to evaluate and improve the Early ACCESS system. These activities are to document the performance of eligible children who receive early intervention services.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.807(34CFR303) Research. Each grantee will cooperate in research activities designed to evaluate and improve the Early ACCESS system when such activities are sponsored by the department, or a signatory agency when approved by the department, to assess and ensure the effectiveness of efforts to serve eligible children.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.808(34CFR303) Records and reports. Each signatory agency or grantee will maintain sufficient records and reports for audit by the department. Records and reports shall include at a minimum:

1. State-approved or state-recognized certification, licensing, registration, or other comparable requirements for all personnel providing early intervention services.
2. All IFSP meetings and annual or periodic reviews for each eligible child.
3. Data required for federal and state reporting.

[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.809(34CFR303) Information for department. Each signatory agency or grantee will provide the department with information necessary to enable the department to carry out its duties under Part C of the Act and this chapter. This information, including such quantitative and qualitative data as the department may require, will be submitted in a manner and at a time determined by the department. Failure to submit timely and accurate information may be considered by the department in making the determinations under rule 281—120.703(34CFR303) or in taking any other action to enforce Part C of the Act or this chapter.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.810(34CFR303) Public information. Each agency must make available to parents of children with disabilities and to the general public all documents relating to the eligibility of the agency under Part C of the Act.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.811(34CFR303) Dispute resolution: practice before mediators and administrative law judges. Unless otherwise provided by this chapter, any mediation conference or due process hearing under Division VI of this chapter shall be conducted according to rules 281—41.1000(256B,34CFR300) through 281—41.1016(256B,34CFR300).
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.812(34CFR303) References to federal law. All references in this chapter to provisions of the United States Code or the Code of Federal Regulations are to those provisions in effect on September 28, 2011.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.813(34CFR303) Severability. Should any rule or subrule in this chapter be declared invalid by a court of competent jurisdiction, every other rule and subrule not affected by that declaration of invalidity shall remain valid.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

281—120.814(34CFR303) Rule of construction. Language adopted pursuant to 2020 Iowa Acts, House File 2585, will be construed in a manner consistent with federal law and will not be construed to confer any different or greater right or responsibility under this chapter.
[**ARC 7805C**, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement the Individuals with Disabilities Education Act as amended through July 1, 2005, and Part 303 of Title 34 of the Code of Federal Regulations published in the Federal Register on September 28, 2011.

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