

681—9.3(23A) Competition with private enterprise.**9.3(1) Definitions.**

“*Compete*” means to engage in, either directly or by or through another state agency or political subdivision, the manufacturing, processing, sale, offering for sale, rental, leasing, delivery, dispensing, distributing, or advertising of goods or services to the public that are also offered by private enterprise. “*Compete*” does not include the use of goods or services exclusively by the institution.

“*Institutions*” means the State University of Iowa, the University of Northern Iowa, and Iowa State University of Science and Technology.

“*Private enterprise*” means an individual, firm, partnership, joint venture, corporation, association, or other legal entity engaging in the manufacturing, processing, sale, offering for sale, rental, leasing, delivery, dispensing, distributing, or advertising of goods or services for profit.

9.3(2) Policy in writing. Each institution shall have a written policy that contains:

- a. A mechanism for reviewing proposed activities involving the sale of goods and services to ensure that the activities are permitted as set forth in this rule; and
- b. A procedure for receiving, reviewing, and responding to inquiries about activities carried out by the institution.

9.3(3) Prohibition. Institutions shall not engage in activities that compete with private enterprise except as provided below.

9.3(4) Exceptions provided by statute. This prohibition does not apply to the activities of an institution as provided in Iowa Code section 23A.2(8) “k”(1) through “k”(10) or any other applicable provision of Iowa law.

9.3(5) Exemptions. The state board of regents exempts the following activities from the prohibition against competition with private enterprise.

- a. Goods and services that are directly and reasonably related to the mission of the institution, including but not limited to:
 - (1) Conferences, institutes, outreach programs, specialized centers and other efforts and programs that provide continuing education;
 - (2) Child day care services and health services provided to members of the university community;
 - (3) Educational media, publication, distribution, and audiovisual centers and services;
 - (4) Family and guest housing or short-term lodging;
 - (5) Laundry, custodial, maintenance, and similar services.
- b. Goods and services offered to only students, employees, or guests of the institution or school and that cannot be provided in a timely manner by private enterprise at the same or lower cost and of the same or better quality or terms.
- c. Use of institutional aircraft and vehicles in connection with institution-related travel.
- d. Durable medical equipment or devices sold or leased for use off premises of an institution or University of Iowa Hospitals and Clinics.
- e. Goods or services that are not otherwise available in the quantity or quality required by the institution, including but not limited to specialized course materials, equipment, supplies, software, and publications.
- f. Telecommunications systems utilized for communications and broadcast and narrowcast communication systems, including microwave, fiber-optic and satellite communications.
- g. Facilities, programs, and associated support services for fitness and recreation.
- h. Food services and sales.
- i. Sales of books, records, tapes, software, educational equipment and supplies, and personal computers and associated hardware.
- j. Goods and services provided to other state board of regents institutions; affiliates of state board of regents institutions; federal, state, and local government entities; nonprofit organizations; entities established pursuant to Iowa Code chapter 28E; and student organizations.
- k. Public-private partnerships or similar economic development projects that are initiated for the benefit of one or more institutions as determined by the state board of regents.

9.3(6) Appeal process.

a. A private enterprise that seeks to appeal an action or activity of an institution shall attempt to resolve the issue at the institutional level. The form of appeal to the institution shall be a letter to the chief business officer.

b. If the private enterprise is dissatisfied with the institution's response, the private enterprise may notify the executive director of the state board of regents and request assistance. This request shall be in writing and shall describe the action or activity that is being appealed.

c. The executive director may then take action to assist the private enterprise and the institution in resolving the issue.

d. If the issue remains unresolved, the executive director, at the request of the private enterprise, may docket the matter for review by the state board of regents. If the matter is docketed, the executive director will prepare a recommendation for the state board of regents to consider. A copy of the recommendation with notice of the time, date, and place of the meeting for which the matter has been docketed shall be transmitted to the private enterprise and the institutions prior to the meeting.

e. State board of regents action shall constitute a final agency action.

This rule is intended to implement Iowa Code chapter 23A.

[ARC 0422D, IAB 7/8/26, effective 8/12/26]