

## CHAPTER 299A

### PRIVATE INSTRUCTION

Referred to in [§257.6](#), [257.31](#), [261.120](#), [261.131](#), [261E.3](#), [261E.8](#), [273.16](#), [274.3](#), [299.1](#), [299.1B](#), [299.8](#), [299.12](#)

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#### **299A.1 Competent private instruction and independent private instruction.**

1. The parent, guardian, or legal custodian of a child of compulsory attendance age who places the child under private instruction shall provide, unless otherwise exempted, competent private instruction or independent private instruction in accordance with [this chapter](#). A parent, guardian, or legal custodian of a child of compulsory attendance age who places the child under private instruction which is not competent private instruction or independent private instruction, or otherwise fails to comply with the requirements of [this chapter](#), is subject to the provisions of [sections 299.1 through 299.4](#) and the penalties provided in [section 299.6](#).

2. For purposes of [this chapter](#) and [chapter 299](#):

a. “*Competent private instruction*” means private instruction provided on a daily basis for at least one hundred forty-eight days during a school year, to be met by attendance for at least thirty-seven days each school quarter, by or under the supervision of a licensed practitioner in the manner provided under [section 299A.2](#), which results in the student making adequate progress.

b. “*Independent private instruction*” means instruction that meets the following criteria:

- (1) Is not accredited.
- (2) Enrolls not more than four unrelated students.
- (3) Does not charge tuition, fees, or other remuneration for instruction.
- (4) Provides private or religious-based instruction as its primary purpose.
- (5) Provides enrolled students with instruction in mathematics, reading and language arts, science, and social studies.
- (6) Provides, upon written request from the superintendent of the school district in which the independent private instruction is provided, or from the director of the department of education, a report identifying the primary instructor, location, name of the authority responsible for the independent private instruction, and the names of the students enrolled.
- (7) Is not a nonpublic school and does not provide competent private instruction as defined in [this subsection](#).
- (8) Is exempt from all state statutes and administrative rules applicable to a school, a school board, or a school district, except as otherwise provided in [chapter 299](#) and [this chapter](#).

c. “*Private instruction*” means instruction using a plan and a course of study in a setting other than a public or organized accredited nonpublic school.

[91 Acts, ch 200, §20](#); [2013 Acts, ch 121, §87, 97](#)

Referred to in [§256.11](#), [273.16](#), [299.11](#), [321.178](#)

#### **299A.2 Competent private instruction by licensed practitioner.**

If a licensed practitioner provides competent instruction to a school-age child, the practitioner shall possess a valid license or certificate which has been issued by the state board of educational examiners under [chapter 272](#) and which is appropriate to the ages and grade levels of the children to be taught. Competent private instruction may include but is not limited to a home school assistance program which provides instruction or instructional

supervision offered through an accredited nonpublic school or public school district by a teacher, who is employed by the accredited nonpublic school or public school district, who assists and supervises a parent, guardian, or legal custodian in providing instruction to a child. If competent private instruction is provided through a public school district, the child shall be enrolled and included in the basic enrollment of the school district as provided in [section 257.6](#). [Sections 299A.3 through 299A.7](#) do not apply to competent private instruction provided by a licensed practitioner under [this section](#). However, the reporting requirement contained in [section 299A.3, subsection 1](#), shall apply to competent private instruction provided by licensed practitioners that is not part of a home school assistance program offered through an accredited nonpublic school or public school district.

[91 Acts, ch 200, §21](#); [92 Acts, ch 1135, §10](#); [92 Acts, ch 1247, §48](#); [2011 Acts, ch 132, §21, 31, 106](#)

Referred to in [§256.11, 261E.3, 273.16, 299.4, 299A.1, 321.178A](#)

### **299A.3 Private instruction by nonlicensed person.**

A parent, guardian, or legal custodian of a child of compulsory attendance age providing private instruction to the child may meet all of the following requirements:

1. Complete and send, in a timely manner, the report required under [section 299.4](#) to the school district of residence of the child.
2. Ensure that the child under the parent's, guardian's, or legal custodian's instruction is evaluated annually to determine whether the child is making adequate progress, as defined in [section 299A.6](#).
3. Ensure that the results of the child's annual evaluation are reported to the school district of residence of the child and to the department of education by a date not later than June 30 of each year in which the child is under private instruction.

[91 Acts, ch 200, §22](#); [2013 Acts, ch 121, §88](#)

Referred to in [§256.11, 273.16, 299A.2, 321.178A](#)

### **299A.4 Annual achievement evaluations — requirements and procedure.**

1. Each child of compulsory attendance age who is receiving competent private instruction shall either be evaluated annually by May 1, using a nationally recognized standardized achievement evaluation or other assessment tool developed or recognized by the department of education and chosen by the child's parent, guardian, or legal custodian from a list of approved evaluations or assessment tools provided by the department of education or be evaluated annually in the manner provided in [subsection 7](#). The department shall provide information on the cost of and the administration time required for each of the approved evaluations. The department shall provide, as part of approval procedures for evaluations to be used under [this section](#), a mechanism which permits the introduction and approval of new or alternate methods of educational assessment which meet the requirements of [this chapter](#).

2. A child, who is seven years of age and is receiving competent private instruction or who is placed under competent private instruction for the first time, shall be administered an evaluation for purposes of obtaining educational baseline data.

3. The director of the department of education, or the director's designee, which may include a school district or an area education agency, shall conduct the evaluations required under [subsections 1 and 2](#) for children under competent private instruction. Evaluation shall occur at a time and a place to be determined by the person responsible for conducting the evaluation. Persons conducting the evaluations shall make every reasonable effort to conduct the evaluations at times and places which are convenient for the parent, guardian, or legal custodian.

4. The parent, guardian, or legal custodian of a child receiving competent private instruction may be present when the child is evaluated, but only if both the parent, guardian, or legal custodian and the child are under the supervision of the evaluation administrator.

5. The conducting of evaluations shall include, but is not limited to, purchasing of evaluation materials, giving the evaluations, scoring and interpreting the evaluations, and reporting the evaluation results.

6. A school district or area education agency shall, if requested, administer the annual achievement evaluation at no cost to the parent, guardian, or legal custodian of the child being evaluated, and, in addition, the parent, guardian, or legal custodian is not required to reimburse the evaluating entity for costs incurred as a result of evaluation under [section 299A.9](#). The administration of the annual achievement evaluation shall not constitute a dual enrollment purpose under [section 299A.8](#).

7. *a.* In lieu of annual achievement evaluations, a parent, guardian, or legal custodian of a child may submit, as evidence of adequate academic progress, all of the following:

(1) A book of lesson plans, a diary, or other written record indicating the subjects taught and activities in which the child has been engaged.

(2) A portfolio of the child's work, including but not limited to, an outline of the curriculum used by the child, copies of homework completed in conjunction with the curriculum and instruction, and copies of evaluations completed by the child which have been produced by the parent, guardian, or legal custodian.

(3) Completed assessment evaluations, other than the annual achievement evaluation, if assessment evaluations are administered to a pupil as part of the competent private instruction by the parent, guardian, or legal custodian.

*b.* If a parent, guardian, or legal custodian submits evidence under [this section](#), the information shall be reviewed by a qualified, licensed, Iowa practitioner selected as the evaluator by the parent, guardian, or legal custodian and approved by the superintendent of the local school district or the superintendent's designee. The evaluator shall prepare a report based on a review of the child's work submitted, which shall include an assessment of the child's achievement or academic progress levels, and submit a copy of the report to the child's parent, guardian, or legal custodian, the school district of residence of the child, and the department of education. If the evidence demonstrates, in the evaluator's opinion, that the child is achieving adequate progress, the report shall create a presumption that the child is making adequate progress.

[91 Acts, ch 200, §23; 92 Acts, ch 1163, §68; 2010 Acts, ch 1061, §180; 2013 Acts, ch 88, §33](#)  
 Referred to in [§261E.3, 299A.2, 299A.6](#)

#### **299A.5 Reporting of evaluation results.**

The results of evaluations administered to children of compulsory attendance age who are under competent private instruction shall be 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. Personally identifiable information relating to or contained in the evaluation scores is confidential and shall not be released without the prior consent of the child's parent, guardian, or custodian except as otherwise permitted by law.

[91 Acts, ch 200, §24; 92 Acts, ch 1163, §69](#)  
 Referred to in [§299A.2](#)

#### **299A.6 Failure to make adequate progress.**

1. If the results of evaluations, administered to a child of compulsory attendance age who is under competent private instruction, indicate that the student has failed to make adequate progress, the parent, guardian, or legal custodian shall cause the child to attend an accredited public or nonpublic school at the beginning of the next school year unless, before the beginning of the next school year, the child retakes a different form of the same evaluation, or another evaluation from the approved list of tests or assessment tools recognized by the department of education, and the results indicate that adequate progress has been made, the child has demonstrated adequate performance in the opinion of an evaluator and documented in a report under [section 299A.4, subsection 7](#), or the director of the department of education, or the director's designee, grants approval for competent private instruction to continue under a plan for remediation.

2. A child who is required to attend an accredited public or nonpublic school under [this section](#) shall continue attendance at an accredited public or nonpublic school until the child achieves adequate progress.

3. For purposes of [this chapter](#), "adequate progress" means, for children in all grade levels

of competent private instruction, evaluation scores which are above the thirtieth percentile, nationally normed, in each of the areas of reading, mathematics, and language arts, and which indicate either that the child has made six months' progress from the previous evaluation results or that the child is at or above grade level for the child's age. For children in grade levels six and above, "adequate progress" also means that the child has achieved evaluation scores in both science and social studies which are above the thirtieth percentile, nationally normed, and which either indicate that the child has made six months' progress from the previous evaluation results or that the child is at or above grade level for the child's age.

[91 Acts, ch 200, §25](#); [91 Acts, ch 258, §41](#); [92 Acts, ch 1135, §11](#); [2017 Acts, ch 54, §76](#)

Referred to in [§299A.2](#), [299A.3](#)

#### **299A.7 Notice to parents — remediation.**

If a child is placed under competent private instruction and the child fails to make adequate progress under competent private instruction, the director of the department of education, or the director's designee, shall notify the parent, guardian, or custodian of the child that the child is required to attend an accredited public or nonpublic school, unless approval for competent private instruction under a remediation plan is granted. The director, or the director's designee, may provisionally approve continued competent private instruction under an approved remediation plan designed to improve instruction for up to one year.

[91 Acts, ch 200, §26](#)

Referred to in [§299A.2](#)

#### **299A.8 Dual enrollment.**

1. If a parent, guardian, or legal custodian of a school-age child who is receiving competent private instruction under [this chapter](#) submits a request, the child shall also be registered in a public school for dual enrollment purposes. If the child is enrolled in a public school district for dual enrollment purposes, the child shall be permitted to participate in any academic activities in the district and shall also be permitted to participate on the same basis as public school children in any extracurricular activities available to children in the child's grade or group. Dual enrollment of a child solely for purposes of accessing the annual achievement evaluation shall not constitute a dual enrollment purpose.

2. If the child is enrolled for dual enrollment purposes, the child shall be included in the public school's basic enrollment under [section 257.6](#). A pupil who is participating only in extracurricular activities shall be counted under [section 257.6, subsection 1](#), paragraph "a", subparagraph (6). A pupil enrolled in grades nine through twelve under [this section](#) shall be counted in the same manner as a shared-time pupil under [section 257.6, subsection 1](#), paragraph "a", subparagraph (3).

[91 Acts, ch 200, §27](#); [92 Acts, ch 1163, §70](#); [92 Acts, ch 1247, §49](#); [2001 Acts, ch 159, §16](#); [2001 Acts, ch 176, §38](#); [2007 Acts, ch 22, §67](#); [2011 Acts, ch 132, §22, 31, 106](#); [2013 Acts, ch 88, §34](#)

Referred to in [§257.6](#), [299A.4](#)

#### **299A.9 Children requiring special education.**

1. A child of compulsory attendance age who is identified as requiring special education under [chapter 256B](#) is eligible for placement under competent private instruction with prior approval of the placement by the director of special education of the area education agency of the child's district of residence.

2. A child who has been placed under competent private instruction, whose performance indicates that the child may require special education, shall be referred for evaluation under [chapter 256B](#) and the rules of the state board of education. Evaluation shall occur at a time and a place to be determined by the person responsible for conducting the evaluation. Persons conducting the evaluations shall make every reasonable effort to conduct the evaluations at times and places which are convenient for the parent, guardian, or legal custodian.

[91 Acts, ch 200, §28](#)

Referred to in [§299A.4](#)

**299A.10 Rulemaking.**

The department of education shall develop and recommend and the state board shall adopt rules to implement [this chapter](#).

[91 Acts, ch 200, §29](#)

**299A.11 Student records confidential.**

Notwithstanding any provision of law or rule to the contrary, personal information in records regarding a child receiving competent private instruction or independent private instruction pursuant to [this chapter](#), which are maintained, created, collected, or assembled by or for a state agency, shall be kept confidential in the same manner as personal information in student records maintained, created, collected, or assembled by or for a school corporation or educational institution in accordance with [section 22.7, subsection 1](#).

[2006 Acts, ch 1152, §48; 2013 Acts, ch 121, §98](#)

**299A.12 Home school assistance program.**

1. The board of directors of a school district shall expend moneys received pursuant to [section 257.6, subsection 1](#), paragraph “a”, subparagraph (5), and amounts designated from the school district’s flexibility account under [section 298A.2, subsection 2](#), for purposes of providing a home school assistance program.

2. Purposes for which a school district may expend funds received pursuant to [section 257.6, subsection 1](#), paragraph “a”, subparagraph (5), or amounts designated from the school district’s flexibility account under [section 298A.2, subsection 2](#), shall include but not be limited to the following:

- a. Instruction for students and assisting parents with instruction.
- b. Support services for students and teaching parents and staff support services.
- c. Salary and benefits for the supervising teacher of the home school assistance program students. If the teacher is a part-time home school assistance program teacher and a part-time regular classroom teacher, funds received pursuant to [section 257.6, subsection 1](#), paragraph “a”, subparagraph (5), or amounts designated from the school district’s flexibility account under [section 298A.2, subsection 2](#), may be used only for the portion of time in which the teacher is a home school assistance program teacher.
- d. Salary and benefits for clerical and office staff of the home school assistance program. If the staff members are shared with other programs or functions within the district, funds received pursuant to [section 257.6, subsection 1](#), paragraph “a”, subparagraph (5), or amounts designated from the school district’s flexibility account under [section 298A.2, subsection 2](#), shall only be expended for the portion of time spent providing the home school assistance program services.
- e. Staff development for the home school assistance program teacher.
- f. Travel for the home school assistance program teacher.
- g. Resources, materials, computer software and hardware, supplies, and purchased services that meet the following criteria:

- (1) Are necessary to provide the services of home school assistance.
- (2) Are retained as the possessions of the school district for its prekindergarten through grade twelve home school assistance program.

3. Purposes for which a school district shall not expend funds received pursuant to [section 257.6, subsection 1](#), paragraph “a”, subparagraph (5), or amounts designated from the school district’s flexibility account under [section 298A.2, subsection 2](#), include but are not limited to the following:

- a. Indirect costs or use charges.
- b. Operational or maintenance costs other than those necessary to operate and maintain the program.
- c. Capital expenditures other than equipment or facility acquisition, including the lease or rental of space to supplement existing schoolhouse facilities.
- d. Student transportation except in cases of home school assistance program-approved field trips or other educational activities.
- e. Administrative costs other than the costs necessary to administer the program.

f. Concurrent and dual enrollment costs and postsecondary enrollment options program costs.

g. Any other expenditures not directly related to providing the home school assistance program. A home school assistance program shall not provide moneys to parents or students utilizing the program.

4. The purposes for and limitations on the expenditure of funds under [subsections 2 and 3](#) shall not be construed to prohibit a school corporation from authorizing the use of items and materials purchased for the home school assistance program for school district purposes other than the home school assistance program so long as the authorized use does not prevent or interfere with the item or material's use by parents or students utilizing the program.

5. Unless otherwise prohibited by law, and if the statutory requirements for use of home school assistance program funding have been met, including funding all purposes listed in [subsection 2](#) and funding all requests for services and materials from parents or guardians of students eligible to access the program, all or a portion of the moneys received by a school district pursuant to [section 257.6, subsection 1](#), paragraph "a", subparagraph (5), that remain unexpended and unobligated at the end of a budget year beginning on or after July 1, 2017, may be transferred for deposit in the school district's flexibility account established under [section 298A.2, subsection 2](#).

2010 Acts, ch 1183, §40; 2011 Acts, ch 132, §23 – 26, 106; 2017 Acts, ch 154, §7 – 11; 2018 Acts, ch 1112, §15 – 17

Referred to in [§257.6, 298A.2](#)

2018 amendment enacting subsection 4 applies to school budget years beginning on or after July 1, 2018; 2018 Acts, ch 1112, §17