



Administrative Rules Review Committee

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THE RULES DIGEST

June 2007

Scheduled for committee review
Monday, June 11th 2007 Committee Room #116

Reference
XXVIX IAB No. 23(05//09/07)
XXVIX IAB No. 24(05/23/07)

HIGHLIGHTS IN THIS ISSUE:

ADMISSION OF UNDERGRADUATE STUDENTS, Regents 1
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BOARD OF REGENTS

9:10

Admission of undergraduate students directly from high school, IAB Vol. XXVIX No. 24, ARC 5893B, ADOPTED.

Under a long-standing board policy graduates of approved Iowa high schools who have the recommended subject matter background and rank in the upper one-half of their graduating class were given automatic admission into a Regent's institution. Applicants who were not in the upper one-half of their graduating class could gain admission at the discretion of the admissions officers, after a review of their academic and test records.

Beginning with the Fall, 2009 academic term admission decisions will be based on four factors - performance on standardized tests; high school grade point average; high school percentile rank in class; and number of high school courses completed in the core subject areas. These factors are used in a weighted formula to calculate a "Regent Admission Index" (RAI). Applicants with a total score of 245 gain automatic admission.

Current rules remain for the case-by-case evaluation of those who do not meet the required

score. Based on individual consideration these applicants can be admitted unconditionally, admitted conditionally, be required to enroll for a tryout period during a preceding summer session, or be denied admission.

SOIL CONSERVATION DIVISION

9:20

Financial incentives for soil erosion control/water protection practices, IAB Vol. XXIX, No. 24, ARC 5907B-5908B, NOTICE.

The first proposal contains a variety of minor amendments to existing rules relating to the Iowa Financial Incentive Program for Soil Erosion Control. The amendments modify the provisions for maintenance and performance agreements and the allocation process and eligibility requirements and revise the program's reporting requirements, practice standards and specifications.

As a condition for receiving financial incentives funds for implementing temporary conservation practices, the recipient must agree to continue those practices for a minimum of five years, signing a performance agreement setting out the required practices. If those practices are not suitably performed for a minimum of five years, the entire

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incentive payment must be paid back to the division. Permanent practices must be maintained for a period set out in the agreement.

The second proposal relates to the financial incentive program for water protection. Iowa Code §161C.4 creates a water protection fund with two functions. The fund finances water quality protection projects protecting surface and groundwater from point and non-point sources of contamination. The fund also finances water protection practices relating to erosion control, these include woodland establishment and protection, establishment of native grasses, sinkhole management, agricultural drainage well management, stream bank stabilization, grass waterway establishment, stream buffer strip establishment, and erosion control structure construction.

CORRECTIONS DEPARTMENT

9:50

Visiting, IAB Vol. XXVIX No. 23, ARC 5708B,
ADOPTED.

The department has for decades maintained detailed rules relating to inmate visits by relatives and friends; the department has broad authority to control visits in order to maintain the security and order of the various institutions. This revision creates a "central visiting authority", a department office that is responsible for the visitor application approval process throughout the system; under the current system each institution conducts its own approval process. Each institution will structure a visiting schedule allowing visitation for a minimum of four days per week, with the visiting room open a minimum of four hours on each authorized visiting day.

The filing contains a great amount of detail relating to sex offenders, with significant additions relating to visits by minors to a sex offender. The offender cannot have any minor visitors until the offender completes the sex offender treatment program; following completion of the program institutions *may* authorize visits by a minor. It should be noted that completion of the program requires an admission of guilt; thus an offender who consistently denies guilt cannot have minor visitor.

There are special rules relating to visits by the *victims* of abuse; such visits are permitted, after consultation with department staff and once the inmate has completed all required treatment programs.

Visiting requirements are also revised for attorneys and clergy. Under the existing rules both professionals must present proof of identity; under these revisions they must also complete an initial visitor application form; however, this initial application applies to multiple visiting lists. Background checks are also required for clergy, but not for attorneys; attorneys have been subjected to background checks as part of the initial licensing process.

IOWA FINANCE AUTHORITY

10:10

State housing trust, IAB Vol. XXIX, No. 24, ARC 5891B,
NOTICE.

Code §16.181 creates a "Housing Trust Fund" within the Iowa Finance Authority (IFA), for the development and preservation of affordable housing for low-income people. For 2007 IFA proposes minor changes in the program.

Money in the fund does not revert to the general fund. The fund consists of two programs: the local housing trust fund and the project based program. For each program applications are evaluated based on a series of weighted criteria, set out in the program. Both programs include a requirement for a local match, but that match is not limited to cash. CDBG grants can qualify as a match; however, HUD home funds cannot. A local match is broadly interpreted and can include such things as land, buildings, infrastructure, cash, tax increment financing proceeds, tax abatement, Brownfield remediation, private contributions, loans at substantially below market interest rates or with other favorable features.

Sixty percent of the fund is to be allocated to the local housing trust. A local fund must have a local governing board responsible for coordinating local housing programs as recognized by the city, county, council of government or regional officials. No more than half the board may be local elected officials. It must serve an area with at least 10,000 in population. Awards must be expended within

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two years. No single award can exceed 10 percent of the balance of the fund, plus 10 percent of any deposits. No more than 10 percent of an award can be used for administration.

In geographic areas of 50,000 or more population, awards may be up to \$200,000; for smaller areas the awards are limited to \$100,000. The local fund must be used to benefit low income persons (80 percent of the *greater* of the county or the statewide median income); however, 30 percent of the moneys must serve extremely low-income people (30 percent of the *greater* of either the county or the statewide median income). This requirement can be met through assistance to homeless or domestic violence shelters, transitional housing projects, housing for persons with disabilities, etc. A 25 percent local match is required, a higher match will increase the applicants score. Applicants must meet a minimum score of 75 in order to be considered for funding:

- Need for housing in the community
0-25 points;
- Impact of activity
0-25 points;
- Financial & overall feasibility of activity
0-25 points;
- Leveraging & partners in activity
0-25 points;
- Administrative capacity of eligible applicant
0-15 points
- Timeline of fund activity
0-05 points;
- Newly formed local fund
0-25 points.

40 percent of the fund is allocated to project based programs. The maximum application amount is \$90,000. The programs must be sponsored by local governments or non-profit organizations and organized for the purpose of developing and preserving single and multi-family housing for low-income persons (80 percent of the median income). Owner-occupied rehabilitation is not eligible under this program. A 10 percent local match is required, a higher match increases the applicants score. Applicants must receive a minimum score of 75 in order to be considered for funding; the criteria are summarized below:

- Need for housing in the community
0-25 points;

- Impact of project
0-25 points;
- Financial & overall feasibility of project
0-25 points;
- Leveraging & partners in project
0-25 points;
- Administrative capacity of project sponsor
0-15 points;
- Timeline
0-05 points.

PUBLIC SAFETY DEPARTMENT

10:50

Weapons permits, IAB Vol. XXIX No. 23, ARC 5856B, ADOPTED.

The department has general authority to establish a permitting process allowing persons to purchase and carry handguns. As set out in Code §724.11, application must be made to the sheriff of the county in which the applicant resides; applications from nonresidents, or by persons whose need to go armed arises out of state government employment must be made to the commissioner of public safety. The sheriff and commissioner have broad discretion in determining the actual issuance of a permit.

The department now completes its most recent update of this long-standing procedure. Permit applicants must pass a criminal background check and attend a handgun safety training program conducted by the law enforcement academy, the national rifle association, a government military organization, or a private provider approved by the department; qualifying on a firing range is required. Fingerprints may also be required. To be eligible for a permit an applicant must:

- Be eighteen years of age or older;
- never been convicted of a felony;
- not addicted to the use of alcohol or any controlled substance;
- have no history of repeated acts of violence; and
- not constitute a danger to any person.

IOWA VOLUNTEER SERVICE COMMISSION

11:10

Iowa mentoring partnership, IAB Vol. XXIX, No. 23, ARC 5882B, NOTICE.

In 2005 Iowa Code Chapter 15H was enacted to codify the Iowa Volunteer Service Commission. The commission was initially established in 1994 by Executive Order No. 48. Under the Act the

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commission remains part of the Governor's Office; its' mission is to advise and assist in the development and implementation of a comprehensive, statewide plan for promoting volunteer involvement and citizen participation and serve as the state's liaison to national and state organizations which support volunteer service activities.

In that same year the commission took over the Retired And Senior Volunteer Program (RSVP), which had been administered by the Department of Elder Affairs. The commission now begins an entirely new program, the Iowa mentoring partnership, which certifies mentoring programs. These programs are administered by not-for-profit entities, schools, or church-related organizations and provides mentoring for persons from 5 to 23 years old. Before a mentoring program can participate in the Iowa mentoring partnership, it must be certified by the commission.

The partnership is organized as a not-for-profit organization and will administer a certification program to ensure the development of responsible mentoring programs. A detailed set of standards are set out in the proposal, generally relating to the organization and operation of the program. The certification does not require renewal, but a de-certification process is set out for programs that fall below the standards.

NATURAL RESOURCES DEPARTMENT (DNR)

11:40

Help Us Stop Hunger (HUSH) deer donation program, IAB Vol. XXIX, No. 23, ARC 5872B, NOTICE.

Iowa Code §483A.8(1) requires deer hunters to pay a one dollar fee for the purpose of deer herd population management, including the "Help Us Stop Hunger Program".

The DNR employs a HUSH coordinator to administer the program. The program is governed by an unpaid council, consisting of:

- The HUSH coordinator, serving as chairperson; chairperson;
- A designee of the DNR wildlife bureau chief;
- A representative of the Food Bank of Iowa;
- The chief of the department of agriculture and land stewardship's bureau of meat and poultry inspection.

The council will recommend to the DNR a fair market price for an annual per deer processing payment for meat processors and an administrative fee to the Food Bank of Iowa, which will act as the distributor of the product.

Under the program meat processors will accept the entire field-dressed carcass of a donated deer, without fees or costs to donors. Processors will be reimbursed by the HUSH program. If the processor determines the venison is in acceptable condition the meat will be processed into pure ground venison with no additives, put into bags provided by the department, and frozen.

NATURAL RESOURCES DEPARTMENT (DNR)

11:40

Bobcat season, IAB Vol. XXIX, No. 23, ARC 5873B, NOTICE.

Under the current rules there is a continuously closed season on the taking of bobcats. The department now implements a trapping season for 21 counties in Southern Iowa, allowing the taking of one bobcat per trapper, with a 150 total limit. There will be a 48 hour grace period after the 150 statewide limit is reached to allow trappers to clear their traps and collect any animal found in those traps. The trapper may retain the bobcat if the trapper has not yet reached the personal limit. Bobcats trapped after the grace period or in excess of the seasonal bag limit must be turned over to the department; the trapper will not be penalized.

This program is similar to the otter season established in 2006 and now retained for the 2007 season.

EDUCATIONAL EXAMINERS BOARD

1:20

Statements of professional recognition, school nurses, 282 IAC 14.140(11), special review, EMERGENCY.

Iowa school districts may employ registered nurses to provide nursing services in the school setting. A school nurse *endorsement* is available for nurses who hold a baccalaureate degree, a license from the nursing board and complete the education core curriculum. The endorsement does not authorize general teaching; however, it does authorize the holder to teach health at all grade levels

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Responding to requests from the nursing profession, in August, 2006 the educational examiners board adopted a new designation: a "statement of professional recognition" (SPR) for nursing. The board has specific authority to issue an SPR under Code §272.2(11). This designation is basically a practice authorization; the rule requires only that the applicant be licensed as a registered nurse; it did not require a baccalaureate degree because it was not an endorsement. This designation allows the nurse to "*promote the health and safety of the students*" and provide medical treatment as allowed under a nursing license, but it does not authorize any educational function.

2007 Acts, Senate File 277 changed the board's authority to issue an SPR; effective July 1, 2007 a baccalaureate degree (i.e.: an undergraduate college degree) is required for any SPR. Section 9 of the Act requires each school district to have a school nurse to provide health services; the nurse must hold an endorsement or a statement of professional recognition for school nurses. More importantly, §14 of the Act re-defines the term "teacher" to include a person who holds a SPR. Under the provisions of Senate File 277 a nurse holding an SPR may therefore qualify to participate in the teacher quality program established in Code Chapter 284.

The board of educational examiners has adopted emergency rules, effective on filing, which require a baccalaureate degree in nursing to qualify for a SPR. This change is based on the boards authority to interpret the provisions of Iowa Code Chapter 272. The effect of this change is to forestall last-minute applications for a SPR by persons who do not hold a baccalaureate degree in nursing. Board representatives state that the legislative intent of Senate File 277 is to include only a baccalaureate degree nurse within the definition of a teacher and that it would be inappropriate to continue to process applications for a SPR using the previous criteria, which would be superseded as of July 1, 2007.

HUMAN SERVICES DEPARTMENT

2:20

SPECIAL REVIEW-Prior ARRC review required: County reporting of MH data--25.41; Citizenship documentation--75.11(2); Personal

needs allowance --75.16(2); Service rate increases --150, 156, 185.

Each year legislation imposes requirements on the department and authorizes the department to implement those provisions on an "emergency" basis---in some cases with the proviso that the committee review the filings prior to adoption by the council. The department offers four emergency amendments relating to House File 909.

House File 909 changed reporting requirements for MH/MR/DD data. Section 87 requires counties to report annually demographic information, expenditure data, and data concerning the services and other support provided to each individual, as specified in rule.

House File 909 also authorizes compliance with federal revisions to the Medicaid program. Public Law 109-432 law exempts certain groups of Medicaid applicants and recipients from the new citizenship and identity documentation requirements set out in 2005 legislation (Public Law 109-171). The exemption from compliance applies to a child in foster care, an individual receiving adoption or foster care assistance, and an individual receiving Social Security Disability Insurance (SSDI) payments.

The Act also resolves a committee issue from 2006. 2006 Iowa Acts, House File 2319 directed the department to increase the personal needs allowance for residents in *nursing facilities* to 50 dollars per month; that princely sum is the amount of income a Medicaid resident is allowed to retain for clothing, toiletries, and other personal expenses. Under Iowa law a nursing facility did not include a facility for persons with mental illness or mental retardation. Section 44 of the Act corrects that disparity.

Section 31 of the Act provides for service rate increases for:

- the foster family basic daily maintenance rate;
- the maximum adoption subsidy rate;
- the maximum supervised apartment living foster care rate;
- social services providers;
- family-centered service providers; family foster care service providers; group foster care service providers;
- the resource family recruitment and retention contractor;
- shelter care services.

HISTORICAL DIVISION

No Rep

Historical resource development program, IAB Vol. XXIX No. 23, ARC 5881B, ADOPTED.

This revision of existing rules eliminates a large amount of detail from the current program, with most detail now left to the statute itself. The current rules fund historic preservation projects involving historic buildings and properties, the preservation and acquisition of museum artifacts and document collections.

The program combines the historical resource development program as established by §303.16 and the resource enhancement and protection Act as established in §455A.16. The resource development program is available to government a private non-profit entities and basically funds maintenance and preservation efforts. Resource enhancement relates to natural heritage projects.

TRANSPORTATION DEPARTMENT

No Rep

Bidding requirements, IAB Vol. XXIX No. 23, ARC 5858B, ADOPTED.

Iowa Code §26.14 was enacted in 2006 and requires "competitive quotations" for certain local public improvements. The thresholds relatively low and specified in the statute:

- \$67,000 for a county, including a county hospital.
- \$51,000 for a city having a population of 50,000 or more, including a city hospital.
- \$51,000 for a school district having a population of 50,000 or more.
- \$51,000 for an aviation authority created within a city having a population of 50,00 or more.
- \$36,000 for a city having a population of less than 50,000, for a school district having a population of less than 50,000, or a city hospital, and
- \$36,000 for any other governmental entity.

This simplified bidding process provides that a local government entity is required to make a good faith effort to obtain quotations for the work from at least two contractors regularly engaged in such work prior to letting a contract. The requirements do not apply to the board of regents and the department of transportation.

Each solicitation must include a description of the work to be performed, and plans and specifications for the work. Bidding contractors must provide a quotation in writing by the specified

date and in the specified format; the quotation must include the total price for labor, equipment, materials and supplies required to perform the work.

The governmental entity must award the contract to the contractor submitting the "lowest responsive, responsible quotation", unless the government entity itself submitted a lower quotation; or the governmental entity may reject all of the quotations.