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Pursuant to section 17A.6 of the Iowa Code, the Iowa Administrative Code [IAC] Supplement is published biweekly and supersedes Part II of previous publications.

The Supplement contains replacement pages to be inserted in the loose-leaf IAC according to instructions in the respective Supplement. Replacement pages incorporate amendments to existing rules or entirely new rules or emergency or temporary rules which have been adopted by the agency and filed with administrative rules co-ordinator as provided in sections 17.7, 17A.4 to 17A.6. [It may be necessary to refer to the Iowa Administrative Bulletin* to determine the specific change.] The Supplement may also contain new or replacement pages for "General Information" and a cumulative index for the Supplement.

When objections are filed to rules by the Administrative Rules Review Committee, Governor or the Attorney General, the context will be published with the rule to which the objection applies.

Any delay by the Administrative Rules Review Committee of the effective date of filed rules will also be published in the Supplement.

Each page in the Supplement contains a line at the top similar to the following:

IAC 12/29/75

Agriculture[30]

Ch 1, p.1

*Section 17A.6 has mandated that the "Iowa Administrative Bulletin" be published in pamphlet form which will contain material formerly published in Part I of the IAC Supplement. The Bulletin will contain Notices of Intended Action, Filed Rules, effective date delays, and the context of objections to rules filed by the Committee, Governor, or the Attorney General.

In addition, the Bulletin shall contain all proclamations and executive orders of the Governor which are general and permanent in nature, as well as other materials which are deemed fitting and proper by the Committee.

INSTRUCTIONS

FOR Updating Iowa Administrative Code with Biweekly Supplement

NOTE: Please review the "Preface" for both the Iowa Administrative Code and Biweekly Supplement and follow carefully the updating instructions.

The boldface entries in the left-hand column of the updating instructions correspond to the tab sections in the IAC Binders.

Obsolete pages to IAC are listed in the column headed "Remove Old Pages". New and replacement pages in this supplement are listed in the column headed "Insert New Pages". It is important to follow instructions in both columns.

UPDATING INSTRUCTIONS October 3, 1979 Biweekly Supplement

IOWA ADMINISTRATIVE CODE

	Remove Old Pages*	Insert New Pages
Agriculture Department [30]	Ch 10, p.13, 14	Ch 10, p.13— Objection, 10.31
Blind, Commission for [160]	Ch 1, p.1—Ch 5, p.1	Ch 1, p.1—Ch 9, p.1
Campaign Finance Disclosure [190]	Ch 4, p.2, 3	Ch 4, p.2, 3
Comptroller, State [270]	Ch 1, p.1—Ch 1, p.2 Ch 2, p.1, 2	Ch 1, p.1—Ch 1, p.2a Ch 2, p.1—Ch 3, p.3
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Energy Policy Council [380]	Ch 1, p.1, 2	Analysis, p.1—Ch 6, p.8
Engineering Examiners [390]	Ch 3, p.4—Ch 4, p.1	Ch 3, p.4—Objection, 4.2(6)
Planning and Programming [630]	Analysis, p.1, 2 Ch 16, p.1—Ch 17, p.1	Analysis, p.1, 2 Ch 16, p.1—Ch 17, p.1
Public Employment Relations [660]	Analysis, p.1, 2 Ch 4, p.3, 4 Ch 6, p.2—Ch 9, p.2	Analysis, p.1, 2 Ch 4, p.3, 4 Ch 6, p.2—Ch 9, p.2

It is recommended that "Old Pages" be retained indefinitely in a place of your choice. They may prove helpful in tracing the history of a rule.

IOWA ADMINISTRATIVE CODE

	Remove Old Pages*	Insert New Pages
Public Safety [680]	Analysis, p.1, 2 Ch 5, p.10a—Ch 5, p.16	Analysis, p.1, 2 Ch 5, p.10a—Ch 5, p.16
Regents [720]	Analysis, p.1, 2 Ch 3, p.1, 2 Ch 3, p.4, 5 Ch 3, p.7a, 8 Ch 3, p.19—Ch 4, p.1 Ch 4, p.4—Ch 4, p.7 Ch 4, p.11—Ch 4, p.17	Analysis, p.1, 2 Ch 2, p.12—Ch 3, p.2 Ch 3, p.4, 5 Ch 3, p.7a, 8 Ch 3, p.19—Ch 4, p.1 Ch 4, p.4—Ch 4, p.7 Ch 4, p.11—Ch 4, p.17a
Revenue [730]	Analysis, p.1, 2 Ch 7, p.5—Ch 7, p.6a Ch 7, p.17, 18 Ch 83, p.3—Ch 97, p.1 Ch 120, p.1—Ch 122, p.1	Analysis, p.1, 2 Ch 7, p.5—Ch 7, p.6a Ch 7, p.17, 18 Ch 83, p.3—Ch 97, p.1 Ch 120, p.1—Ch 122, p.1
Social Services [770]	Analysis, p.2, 2a Analysis, p.3a, 4 Analysis, p.6, 6a Ch 9, p.1—Ch 17, p.1 Ch 20, p.2, 3 Ch 22, p.1, 2 Ch 30, p.2—Ch 40, p.3 Ch 41, p.5, 6 Ch 41, p.10a—Ch 41, p.13a Ch 41, p.16—Ch 42, p.1 Ch 44, p.1—Ch 50, p.1 Ch 54, p.1, 2 Ch 54, p.5—Ch 54, p.8 Ch 78, p.12—Ch 78, p.14a Ch 78, p.22—Ch 80, p.1 Ch 90, p.1, 2 Ch 101, p.1—Ch 103, p.2 Ch 135, p.1—Ch 137, p.2 Ch 139, p.1—Ch 142, p.1	Analysis, p.2, 2a Analysis, p.3a—p.4a Analysis, p.6, 6a Ch 9, p.1—Ch 17, p.1 Ch 20, p.2, 3 Ch 22, p.1, 2 Ch 30, p.2—Ch 40, p.3 Ch 41, p.5, 6 Ch 41, p.10a—Ch 41, p.13a Ch 41, p.16—Ch 42, p.1 Ch 44, p.1—Ch 50, p.1 Ch 54, p.1, 2 Ch 54, p.5—Ch 54, p.8 Ch 78, p.12—Ch 78, p.14a Ch 78, p.22—Ch 80, p.1 Ch 90, p.1, 2 Ch 101, p.1—Ch 103, p.5 Ch 135, p.1—Ch 137, p.2 Ch 139, p.1—Ch 142, p.2
Transportation [820]	[06,Q] Ch 19, p.1, 2	[06,Q] Ch 19, p.1, 2

*It is recommended that "Old Pages" be retained indefinitely in a place of your choice. They may prove helpful in tracing the history of a rule.

Active Ingredient	Formulation	Use Pattern	Classification
	Liquid fertilizers containing concentrations of 0.025 pct. paraquat dichloride and 0.03 pct. atrazine; 0.03 pct. paraquat dichloride and 0.37 pct. atrazine. 0.04 pct. paraquat dichloride and 0.49 pct. atrazine.	All uses	Unclassified
Picloram	All formulations and concentrations except tordon 101 R. Tordon 101 R forestry herbicide containing 5.4 pct. picloram and 20.9 pct. 2,4-D.	All uses Control of unwanted trees by cut surface treatment.	Restricted Unclassified
Sodium cyanide	All capsules and ball formulations.	All uses	Restricted
Sodium fluoroacetate	All solutions and dry baits.	All uses	Restricted
Strychnine	All dry baits, pellets and powder formulations greater than 0.5 pct.	All uses	Restricted
	All dry baits, pellets and powder formulations.	All uses calling for burrow builders.	Restricted
	All dry baits, pellets and powder formulations 0.5 pct. and below.	All uses except subsoil	Restricted
	All dry baits, pellets and powder formulations 0.5 pct. and below.	All subsoil uses	Unclassified
Sulfotepp	Sprays and smoke generators.	All uses	Restricted
Tepp	Emulsifiable concentrate formulations.	All uses	Restricted

Active Ingredient	Formulation	Use Pattern	Classification
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Note: As regards use of DDT, DDD, inorganic arsenic, heptachlor, lindane, see IAC Environmental Quality rules (400) appearing in chapter 35, Agricultural Chemicals as they refer to restricted usage.

This rule is intended to implement section 206.20 of the Code.

30—10.31(206)* Application of pesticides toxic to bees. Owners of apiaries, in order to protect their hives from pesticide applications, shall register the telephone number where they can be reached and the locations of bee yards on forms, DOA #10, Apiary Registration Form provided by the department, with the state apiarist, before May 1 of each year. Within thirty days thereafter, the department shall provide each ASCS office with information of such locations indicating township, section and range of bee yards in that county, along with the telephone number of each registered owner.

Prior to application of any pesticide that indicates on its label that it is toxic to bees, the applicator shall determine if the field is within a two mile radius of any registered bee yard by contacting the county ASCS office or by calling 515/281-3561 during hours when the ASCS office is not open.

The applicator shall give notice to the owner, the owner's agent or a member of the owner's family at least twenty-four hours and no more than seventy-two hours prior to such application. Owners of apiaries, in order to protect their hives from such pesticide applications, shall man the telephone designated on the Apiary Registration Form; or in the event that the owner, the owner's agent or a member of the owner's family will not be available at the designated telephone number, said owner shall call 515/281-3561, provide an alternative telephone number where he can be contacted, and be available at that number.

If an applicator, after diligently attempting to do so, is unable to reach the owner or other appropriate person at either telephone number, he/she shall call 515/281-3561. A representative of the department shall make one additional attempt to give proper notice by again calling both telephone numbers. If the applicator and the department are not successful in contacting and notifying the owner, the owner's agent or a member of the owner's family by calling both telephone numbers, the owner of the apiary shall be deemed to have been duly notified; and the applicator may apply the chemicals as requested.

Pesticides may be applied earlier than twenty-four hours and later than seventy-two hours after notification of bee owner, with consent of the bee owner.

This rule is intended to implement section 206.11(3) "b" and "c" of the Code.

[Filed December 2, 1963; amended May 15, 1964]

[Filed 5/21/76, Notice 12/15/75—published 6/14/76, effective 7/20/76]

[Filed without notice 12/21/76—published 1/12/77, effective 2/17/77]

[Filed 2/17/77, Notice 1/12/77—published 3/9/77, effective 4/14/77]

[Filed 5/25/77, Notice 2/23/77—published 6/15/77, effective 7/20/77]

[Filed 6/10/77, Notice 4/20/77—published 6/29/77, effective 8/4/77]

[Filed 6/26/78, Notice 5/17/78—published 7/26/78, effective 8/30/78]

[Filed 7/23/79, Notice 5/2/79—published 8/8/79, effective 9/12/79]

On September 12, 1979, the Administrative Rules Review Committee voted the following objection:

The Administrative Rules Review Committee objects to agriculture department rule 30—10.31 relating to application of pesticides toxic to bees on the grounds the rule is beyond the authority of the department. The rule appears as ARC 0469 in Vol. II, Number 3, IAB, August 8, 1979. In essence the rule provides for mandatory reporting system to be followed prior to the application of pesticides harmful to bees. It is the opinion of the committee chapter 206 of the Code relating to pesticides neither implicitly or explicitly authorizes such a program. Chapter 206 in essence establishes a licensing program for commercial applicators and is additionally designed to ensure that all applicators use the product according to manufacturer's instructions. It does not contemplate a mandatory warning system prior to the use of these chemicals.

BLIND, COMMISSION FOR[160]

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CHAPTER 1 GENERAL ORGANIZATION AND ADMINISTRATION

160—1.1(601B) Functions. The Iowa commission for the blind is the state agency responsible for providing a wide range of services to the blind of Iowa. The commission in general seeks to ameliorate the condition of the blind through such lawful methods as are available. It establishes and maintains offices for the commission and accepts gifts, grants, devises or bequests of real or personal property from any source for the use and purposes of the commission.

The commission prepares and maintains a complete register of the blind of the state; ameliorates the condition of the blind by promoting visits to them in their homes for the purpose of instruction and by such other lawful methods as the commission deems expedient; makes inquiries concerning the causes of blindness and co-operates with the other organized agents of the state in the adoption and enforcement of proper preventive measures.

The commission establishes, manages, and controls a special training, orientation and adjustment center for the blind. Training in the center is limited to persons who are sixteen years of age or older, and the commission provides or causes to be provided no academic education or training to children under the age of sixteen except that the commission does provide library services to these children. The commission provides for the maintenance, upkeep, repair, and alteration of the center building, and the director of the commission for the blind employs the necessary personnel to maintain and operate the center at salaries fixed by the director with the approval of the commission.

In conjunction with the fulfillment of its statutory charge to discourage begging, the commission provides for suitable vocational training whenever such is deemed advisable and necessary. The commission may provide or pay for, during their training period, the temporary lodging and support of persons receiving vocational training.

The commission makes an annual report to the governor of its proceedings for each fiscal year and performs all other duties required of it by law. The annual report also presents a concise review of the work of the commission for the preceding year with such suggestions and recommendations for improving the conditions of the blind as may be expedient.

160—1.2(601B) Membership. The commission for the blind consists of three members appointed by the governor with the approval of two-thirds of the members of the Iowa senate. Prior to July 1 of each year the governor appoints a member to succeed the member whose term expires on that date. All appointees serve for a period of three years from July 1 of the year of appointment or until the expiration of an unexpired term to which appointed. No more than two members may be from the same political party. The members receive a statutory per diem allowance for their services and are entitled to receive traveling and other necessary expenses incurred in their duties.

160—1.3(601B) Organization. The organization of the agency provides for a central office in Des Moines located at the commission building at Fourth and Keosauqua Way, Des Moines, Iowa 50309, (515-283-2601), and district offices situated in convenient centers in the state, including 732 Higley Building, Cedar Rapids, Iowa 52401, (319-365-9111); 620 Donaldsons Building, Waterloo, Iowa 50703, (319-235-1403); 427 Frances Building, Sioux City, Iowa 51101, (712-238-0293). Located in the central office are administrative and supervisory personnel; counseling, teaching, and support staff; and library and orientation services.

The director of the commission serves as secretary to the commission and is responsible for the overall administration of the program. The director recruits and trains staff; plans and oversees execution of the budget; assures provision of adequate and uniform services in the application of policies, rules, and regulations; determines the number and type of personnel and makes staffing and budgetary recommendations to the commission; develops, establishes, and maintains cooperative agreements and working relationships with public and voluntary agencies; interprets program objectives and promotes public interest in and acceptance of the program; and maintains an adequate reporting system for necessary records.

The deputy director serves as administrative executive officer for the director, being immediately responsible to and assisting him/her in various functions and working in other assigned areas such as preparation of public information brochures, research, and statistics. In addition, the deputy director serves as head of the division of administration and staff support and thereby assumes special responsibility in the areas of staff development, in-service training programs, orientation of new personnel, program evaluation, and fiscal planning and management.

The assistant director in charge of library and social services for the blind reports to the director and works with other staff in co-ordinating and developing the total program of the agency. He/she is responsible for recruiting and training staff who work in the library; interpreting the program to the public and volunteer groups; working with officials of the Library of Congress in the total national program; directing and co-ordinating the library operation—program planning and development, training commission students in use of the library, circulation, transcription, and provision of texts for students; conducting staff development and organizational activities.

The assistant director in charge of field operations for the blind is responsible to the director for the conduct of all field operations of the commission except library services. He/she co-ordinates and supervises rehabilitation counseling, teaching, placement, home industries, and business enterprises; recruits and trains staff to work in the field; establishes and oversees case findings and case work procedures; reads and interprets federal laws and regulations and deals with federal officials in a variety of situations concerning various facets of the program; and works with individual blind persons and their families as appropriate.

The assistant director in charge of orientation for the blind is responsible to the director for the commission's work in orientation and adjustment, including management of the orientation and adjustment center, co-ordination with the director and other staff of the commission's overall rehabilitation effort; recruitment and training of staff members for the center; interpretation of the program to the general public and to other agencies; and supervision of orientation teachers and students.

The supervisor of facility maintenance for the blind reports to the director as the head of the division of physical plant management. He/she works with blind students at the orientation center in room assignment, orientation to the building, and similar matters; works with and supervises staff performing maintenance and custodial work; assumes responsibility for overall repair, upkeep, cleaning, and maintenance of the commission building.

160—1.4(601B) Meetings and public information. The commission holds an annual meeting in the commission building at Fourth and Keosauqua Way in Des Moines at 10:00 a.m. on the second Wednesday of January each year. The commission holds such other meetings as it finds necessary, but generally once a month. A vote of two members is required to act in the name of the commission. Notice of commission meetings and tentative agenda is posted on the first floor bulletin board of the commission building and in the governor's lower office at the state capitol building in Des Moines a minimum of twenty-four hours prior to meetings and a copy is filed with the governor's press secretary for accessibility to the media. Persons desiring notice of the meetings, including but not limited to representatives of the communications media, may file with the commission's administrative office a standing request to be mailed copies of all notices of commission meetings. The public may obtain information by writing, visiting, or telephoning offices of the commission in Des Moines or any of the district offices. A free incoming WATS telephone line may be used to contact the commission during business hours from 8:00 a.m. to 5:00 p.m. That number is (800) 362-2587.

160—1.5(601B) Federal aid. The commission receives financial aid from the government of the United States for the purpose of assisting in carrying out its statutory functions. The commission operates under applicable federal laws and regulations governing vocational rehabilitation programs in providing such services to the blind of Iowa, specifically the Rehabilitation Act of 1973 as amended, the Randolph-Sheppard Vending Facility Act as amended, and regulations issued pursuant to those Acts [Chapter XIII of Title 45, Parts 1361, 1362 (November 25, 1975), and 1369 (March 23, 1977), and Part 84 (May 4, 1977) of Title 45 of the Code of Federal Regulations].

The state plan for the vocational rehabilitation of the blind of Iowa is developed by the commission pursuant to federal regulations every three years. In accordance with sections 1361.18(c) and 1361.19(b) of the regulations, reports of all statewide studies and a description of methods used to obtain and consider views on matters of public policy expressed by recipients and providers of service, along with those of others active in the field of vocational rehabilitation, are available to the public for review. Further information regarding relevant federal programs may be obtained by contacting either the commission or the following: (1) Regional Office of Rehabilitation Services, Office of Human Development Services, Department of Health, Education, and Welfare, 601 East 12th Street, Kansas City, Missouri 64106 or (2) Rehabilitation Services Administration, Office of Human Development Services, Department of Health, Education, and Welfare, Washington, D.C. 20201.

160—1.6(601B) Forms. Copies of all necessary forms and instructions for submitting them may be obtained from the Iowa Commission for the Blind, Fourth and Keosauqua Way, Des Moines, Iowa 50309, or from the district offices.

1.6(1) *Field operations forms.*

FORM NAME

Application for
rehabilitation services

DESCRIPTION

Basic form used to apply for
vocational rehabilitation
services from the commission.
Also contains statement of
compliance with Civil Rights
Act of 1964 and release of
information form.

Individualized written
rehabilitation program

The standard form used by
counselor and client to
develop a blind person's
program for rehabilitation.
Printed on the form are the
following statements:
Mutual agreement and
understanding between client
and counselor, commission
responsibilities, client
responsibilities, review
and evaluation of progress
toward objectives and goal;
client rights and remedies.
In addition, the IWRP
provides for mutual development
of a vocational goal,
intermediate objectives,
summary of planned services,
accepted criteria for review
and evaluation purposes,
and client acceptance and
response.

1.6(2) *Business enterprises program forms.*

FORM NAME

Agreement between the
commission for the
blind and the operator
of a vending facility or
business enterprise

DESCRIPTION

Contains fourteen specific
understandings between
operator and commission in
accordance with rules and
regulations governing the
vending facility program.
This form is signed by both
the operator and commission
representative when the
former assumes operation
of a vending facility.

1.6(3) Library forms.**FORM NAME**

Applications for service
(tan for blind, orange
for physically handicapped
borrowers)

DESCRIPTION

Provide to the commission
information needed to establish
eligibility for loan of
cassette or talking book
machines and for initiation
of appropriate service for
blind or physically
handicapped borrowers.*

***ELIGIBILITY REQUIREMENTS**

In addition to the blind and the visually disabled, the library of the Iowa commission for the blind provides services to other physically handicapped persons as follows: (1) Persons certified as unable to read or unable to use standard printed material as a result of physical limitations (e.g., paralysis, missing hands or arms, extreme weakness); (2) Persons certified by competent authority as having a reading disability resulting from organic dysfunction and of sufficient severity to prevent their reading printed material in a normal manner. Competent authority is defined as doctors of medicine who may consult with colleagues in associated disciplines.

Persons classified as slow learners, mentally retarded, or as having a learning disability are ineligible for service unless they also meet at least one of these two eligibility requirements. If medical reports are available, they should be attached to the application.

Book order forms
(braille, large type,
cassette, magazine)

Provide space for borrowers
to submit requests to the
library for books or
magazines or both to be mailed.

Service instruction forms

Enable borrowers to check
boxes for resumption of
interrupted service, pick up
of machines, temporary
interruption of service,
and borrowing Bibles or
machines, and so forth.

1.6(4) Personnel forms.**FORM NAME**

Application

DESCRIPTION

Provides information
needed to consider an
applicant for a staff
position with the commission.

Applicant survey

Collects information
voluntarily submitted by
applicant (apart from the
application) used for
statistical reports.

These rules are intended to implement sections 17A.3 and 601B.7 of the Code.

[Filed 9/23/76, Notice 8/9/76—published 10/20/76, effective 11/24/76]

[Filed 9/17/79, Notice 6/13/79—published 10/3/79, effective 11/7/79]

CHAPTER 2 SERVICES

160—2.1(601B) Definition. The commission accepts the following definition of blindness, and appropriate rehabilitative services will not be denied to any person on the grounds that he or she is not blind if such person meets one or more of the following criteria: (1) Vision not more than 20/200 central visual acuity in the better eye, with correcting glasses, or a field defect in which the peripheral field has contracted to an extent that the widest diameter of visual field subtends an angular distance of not greater than 20°; (2) a combination of loss of visual acuity and loss of visual field which imposes an employment handicap which is substantially that of a blind person; (3) medical prognosis indicating a progressive loss of sight which will terminate in blindness as defined in (1) of this paragraph; (4) a visual impairment sufficient to warrant attendance at the Iowa braille and sight saving school or programs for the severely visually impaired in the public schools; or (5) a visual impairment which by agreement between the Iowa rehabilitation education and services branch of the department of public instruction and the commission for the blind is such that the individual can be served best by the commission for the blind.

160—2.2(601B) Eligibility. Eligibility for vocational rehabilitation will be determined upon the presence of two basic conditions: (1) The existence of blindness as defined in 2.1(601B) above, according to the examination of an approved licensed eye practitioner, which constitutes or results in a substantial handicap to employment; and (2) reasonable expectation that vocational rehabilitation services may render the individual fit to engage in a gainful occupation. Library and social services of the commission are available to blind children and adults as defined in 2.1(601B). Library services are also available to the physically handicapped who are unable to read customarily available books and magazines because of the existence of a physical disability certified by a competent specialist. Eligibility will be determined in compliance with applicable federal and state laws prohibiting discrimination on the basis of age, race, creed, color, sex, national origin, or religion.

160—2.3(601B) Application procedure. Persons desiring services offered by the commission for the blind should contact either the commission directly or county social services offices, local public or private service organizations, general medical practitioners, ophthalmologists or optometrists. Application forms calling for data necessary to determine eligibility for services may be obtained from the Commission for the Blind, Fourth and Keosauqua Way, Des Moines, Iowa 50309.

160—2.4(601B) Available services. The commission may provide to individuals and groups under the rehabilitation program such activities and services as are necessary to enable blind persons to develop to their optimum potential. These activities and services may include but not be limited to the following: Evaluation of rehabilitation potential; counseling, guidance, and referral; physical and mental restoration; vocational and other training services; maintenance; transportation; services to other family members necessary for adjustment or rehabilitation of a blind person; interpreter services for the deaf-blind; reader services, rehabilitation teaching services, and orientation and mobility services for the blind; telecommunications, sensory, and other technological aids and devices; recruitment and training services to provide new employment opportunities in the fields of rehabilitation, health, welfare, public safety, law enforcement, and other appropriate public service employment; placement; post-employment services; occupational licenses, tools, equipment, initial stocks (including livestock) and supplies; acquisition of vending or other equipment; operation of a radio reading for the blind service; purchase, preparation, and distribution of instructional or cultural materials to be used in training, employment, or cultural upgrading of a group of handicapped individuals; purchase and maintenance of equipment in

connection with instructional materials; provision of specialized library services and equipment; making available to blind persons special tools, aids, and devices to assist them in achieving self-sufficiency; and provision of other goods and services considered beneficial to rehabilitation and amelioration of problems caused by blindness.

Joint planning between the client and the commission representative will be employed in order to determine which specific services will be most beneficial to the client in achieving his or her full potential. Such factors as the following will be taken into account in arriving at a decision as to what services will be provided: The constraints of the prevailing job market, the desires and capacities of the client, and available resources. Although there will be no upper or lower age limit as a condition to receipt of vocational rehabilitation services, specific services to individuals may vary widely since each client's needs will be determined by the potential of such services to assist the individual in achieving an appropriate level of independence, self-sufficiency, and accomplishment. In determining specific services to be provided any individual, professional judgment must necessarily be involved to a great extent.

160—2.5(601B) Consideration of similar benefits.

2.5(1) Full consideration is given to any similar benefits available to a blind person under any program (for example, workmen's compensation, Supplemental Security Income, Social Security Disability Insurance) to meet in whole or in part the cost of any vocational rehabilitation services provided to such a person, except (in accordance with federal regulations) for evaluation of rehabilitation potential; counseling, guidance, and referral; vocational and other training services, including personal and vocational adjustment training; books, tools, and other training materials; services to a member of a blind person's family; placement; and post-employment service necessary to assist blind persons in maintaining suitable employment. No training or training services in institutions of higher education (universities, colleges, community or junior colleges) shall be paid for with rehabilitation funds unless maximum efforts have been made by the commission to secure grant assistance in whole or in part from other sources to pay for such training or training services.

2.5(2) Full consideration is given to any similar benefit available under any other program to a blind person to meet, in whole or in part, the cost of physical and mental restoration services and maintenance provided to a blind person except where such consideration would significantly delay the provision of such services to an individual.

2.5(3) To the extent that an individual is eligible for such similar benefits, they are utilized insofar as they are adequate and do not interfere with achieving the rehabilitation objective of the individual.

160—2.6(601B) Adjustment center. Admission to the orientation and adjustment center shall be open to all vocational rehabilitation clients as part of their prevocational training and as agreed upon in their individual written program. The student shall reside in the center and not return home for visits during the first thirty days of enrollment. Students are encouraged, however, to receive visitors at the commission. They may also make calls to family and friends and may be contacted by telephone at (515) 283-2601. Students will be required to participate in all parts of the program. Student use of dog guides during the center activities will not be allowed. However, users of dog guides shall otherwise have access to all commission facilities subject to applicable state or federal laws or rules. It is the general policy of the commission not to accept as students in the center persons who remain in the caseloads of vocational rehabilitation agencies in other states, but the commission will consider exceptions to this policy at the formal written request of such agencies. Clients of agencies in other states will be admitted only when such admittance will not deny training to an otherwise eligible client of the commission for the blind.

This rule is intended to implement section 601B.6(9) of the Code.

[Filed 9/23/76, Notice 8/9/76—published 10/20/76, effective 11/24/76]

[Filed 9/17/79, Notice 6/13/79—published 10/3/79, effective 11/7/79]

commission upon its review. When the requested information is received, the disposition of the petition shall proceed in accordance with this rule.

b. The director may formulate a proposed declaratory ruling stating the reasons for it or may decline to issue a ruling stating the reasons for doing so. The director shall notify the petitioner by certified mail of his/her action within thirty days after the receipt of the petition or within fifteen days of the receipt of additional information requested pursuant to "a".

c. A proposed declaratory ruling or declination to rule shall become the final commission action unless the petitioner requests the commission board to review such ruling or declination within ten days after the notification required by "b" has been received, or any member of the commission board files a written request for full board review within thirty days of the issuance or nonissuance of a ruling, and the director shall notify the petitioner of the commission board's decision to review.

d. The petitioner may submit such additional written material or arguments, including briefs, to the commission board as it deems appropriate. Such submission shall be made to the director within ten days of the receipt of the notice provided in "b" or "c" as appropriate, who shall transmit the materials to the commission board for its consideration. Any member of the commission board may extend the ten-day time limit for good cause shown.

e. If review is granted, the commission board shall review the director's action at its next regularly scheduled meeting or at a specially convened meeting, which meeting shall follow the time allowed by "d" for the submission of additional materials. Upon review the commission board may:

(1) Approve the proposed declaratory ruling, in which case, the ruling becomes the final declaratory ruling of the commission, or

(2) Modify the proposed declaratory ruling, in which case, the modified ruling becomes the final declaratory ruling of the commission, or

(3) Decline to issue a declaratory ruling, or

(4) Instruct the director to request additional information pursuant to "a", or

(5) Instruct the director to re-evaluate his/her proposed declaratory ruling and submit a new proposed declaratory ruling at the next commission board meeting. At the next board meeting, the commission shall render a decision in accordance with subparagraphs (1), (2), or (3) of this paragraph.

3.2(3) Effect of ruling. A final declaratory ruling shall be binding upon both the petitioner and the commission. Receipt of a final declaratory ruling shall constitute a waiver by the petitioner of any more extensive rights which may have been available to the petitioner had he/she utilized an alternative agency procedure available to him/her.

3.2(4) Judicial review. The petitioner may seek judicial review of any final declaratory ruling issued in accordance with the terms of the Iowa administrative procedure Act.

This rule is intended to implement section 17A.9 of the Code.

160—3.3(601B) Administrative review of agency action and fair hearing.

3.3(1) Any applicant for or recipient of vocational rehabilitation services from the commission who is dissatisfied with a commission decision with regard to the furnishing or denial of services may file a written request for review and redetermination of that decision or for promulgation, amendment, or repeal of a rule, and such review shall be made by the appropriate department head or his or her designee within time limitations imposed by applicable state or federal laws and regulations.

3.3(2) If differences are not settled by administrative review, an opportunity for a fair hearing before the director or the director's designee will be granted to any individual who is not satisfied with results of the administrative review. Any applicant for vocational rehabilitation shall be advised of his or her right to an administrative review and fair hearing in the event the application is denied or is not acted upon with reasonable promptness or in the event he or she is dissatisfied with any action arising out of the commission's provision of rehabilitation services. The hearing shall be held at a time and

place convenient to the individual requesting it. The individual will be notified in writing as to the time and place of the hearing within a reasonable time in advance of the hearing. The individual will also be notified in writing of his or her right to be represented at the hearing by counsel or a friend, if he or she so desires, and the individual will be so notified in time to have an adequate opportunity to prepare his or her case. At the hearing the individual and his or her representative, if he or she desires to have one, will have an adequate opportunity for cross-examination and to present evidence in his or her behalf. The hearing shall be held before the director or the director's designees who, insofar as possible, have not taken part in the action under consideration. Authority to make the final decision based upon the record shall be exercised by the director. The verbatim transcript of the testimony and exhibits or an official report containing the substance of what transpired at the hearing, together with all papers and reports filed in the proceedings and the hearing officer's recommendation, shall constitute the exclusive record for decision and shall be available to the individual at any reasonable time. The decision shall set forth the issue, principle, and relevant facts brought out at the hearing, the pertinent provisions in law and in agency policy, and the reasoning that led to the decision. The individual shall be forwarded a copy of the decision or shall be advised in writing of the content.

3.3(3) It is the policy of the commission to inform all applicants for or recipients of vocational rehabilitation services of the provisions set forth in subrules 3.3(1) and 3.3(2) above.

160—3.4(601B) Confidential information. All information as to the personal facts and circumstances of applicants or clients given or made available to the agency, its representatives, or employees in the course of administration of the commission's program,

will be held to be confidential. The use of such information and records will be limited to purposes directly connected with the administration of the vocational rehabilitation program for the blind and may not be disclosed, directly or indirectly, other than in the administration of the program, unless the implied or direct consent of the client to such release has been obtained. Release of information directly connected with the administration of the vocational rehabilitation program to any individual, agency, or organization shall be conditioned upon satisfactory assurance by such individual, agency, or organization that the information will be used only for the purpose for which it is provided and that it will not be released to any other individual, agency, or organization.

[Filed 9/23/76, Notice 8/9/76—published 10/20/76, effective 11/24/76]

[Filed 9/17/79, Notice 6/13/79—published 10/3/79, effective 11/7/79]

CHAPTER 4 VENDING FACILITIES

160—4.1(601B,C) Rules governing the vending facility program.

4.1(1) *Assignment of operators.* In assigning managers to operate vending facilities, the commission will comply with all applicable federal and state laws prohibiting discrimination. Vending facilities will be operated only by persons who are certified by the commission on the basis of applicable federal and state laws and regulations as qualified to operate a vending facility.

Operators will be assigned for an indefinite period but subject to termination if, after affording the operator an opportunity for a fair hearing, the commission finds that the vending facility is not being operated in accordance with its rules.

4.1(2) *Removal of operators.* An individual may be removed as the operator of a vending facility on federal or other property if the commission finds that the vending facility is not being operated in accordance with its rules.

4.1(3) *Administrative review, evidentiary hearings and complaint to Secretary of Health, Education, and welfare.*

a. Any blind operator who is dissatisfied with any action arising from the operation or administration of the vending facility program may submit to the commission in writing a request for administrative review by the supervisor of the business enterprises program. It is anticipated that differences will be settled at this level.

b. If differences are not settled, the operator may submit a request for a full evidentiary hearing, which shall be held before the director or the director's designees. The hearing shall be held at a time and place convenient to the operator requesting it. The operator will be notified in writing as to the time and place of the hearing within a reasonable time in advance of the hearing. The operator will also be notified of his or her right to be represented at the hearing by counsel or a friend, if he or she so desires, and the operator will be so notified in time to have an adequate opportunity to prepare his or her case. At the hearing the operator and the operator's representative, if he or she so desires to have one, will have an adequate opportunity for cross-examination and to present evidence in the operator's behalf. The hearing shall be held before the director or director's designees who, insofar as possible, have not taken part in the action under consideration. Authority to make the final decision based upon the record shall be exercised by the director. The verbatim transcript of the testimony and exhibits or an official report containing the substance of what transpired at the hearing, together with all papers and reports filed in the proceedings and the hearing officer's recommendation shall constitute the exclusive record for the decision and shall be available to the operator at any reasonable time. The decision shall set forth the issue, principle, and relevant facts brought out at the hearing, the pertinent provisions in law and in agency policy, and the reasoning that led to the decision. The operator shall be forwarded a copy of the decision or shall be advised in writing of the content.

c. If the blind operator is dissatisfied with any action taken or decision rendered as a result of the hearing, he or she may file a complaint with the Secretary of Health, Educa-

tion, and Welfare, Washington, D. C., who shall convene a panel to arbitrate the dispute, and the decision of the panel shall be final and binding on the parties except as otherwise provided in applicable federal law and regulation.

The arbitration panel convened by the Secretary of Health, Education, and Welfare to hear grievances of blind operators shall be composed of three members appointed as follows: One individual designated by the director of the commission; one individual designated by the blind operator; and one individual not employed by the commission who shall serve as chairperson, jointly designated by the members appointed by the commission and the blind operator. If any party fails to designate its representatives the Secretary of Health, Education, and Welfare shall designate such representation.

4.1(4) *Furnishing equipment and initial stock.*

a. The commission shall be responsible for furnishing each vending facility with adequate, suitable equipment, and the operator is responsible for maintenance or upkeep of the equipment except that the commission will assume responsibility for costs arising from problems in connection with maintenance or upkeep of equipment during the first forty-five calendar days of an operator's occupancy of a location. It is understood that warranties will be fully utilized where applicable. In unusual circumstances the commission may pay particular costs in connection with maintenance and upkeep of equipment upon negotiation with the operator.

b. The commission shall furnish each vending facility with adequate initial stock of merchandise.

4.1(5) *Right, title to and interest in vending facility equipment and stock.* The right, title to and interest in vending facility equipment and stock used in the program is vested in the commission for the blind, except that if at any time any operator of a vending facility indicates a desire to become an independent owner-operator and purchase the equipment and stock of the facility he or she is operating, then the commission will immediately, in consultation with the committee of blind vendors establish specific procedures to be employed which will conform to the applicable federal law and regulation in force at the time such purchase is negotiated. The purchase price will be the fair market value of the equipment provided by the commission plus an amount equal to the purchase price paid by the commission for initial stock for the facility.

4.1(6) *Policies governing the duties, supervision, transfer and participation of operators.* The proceeds of the operation of each facility shall accrue to the operator after paying operating costs. Each vending facility operator shall agree to:

a. Perform faithfully and to the best of his or her ability the necessary duties in connection with the operation of the vending facility in accordance with the commission's rules;

b. Co-operate fully with officials and duly authorized representatives of the commission in connection with their official program responsibilities;

c. Operate the vending facility in accordance with all applicable health laws and regulations; and

d. Furnish such reports as the commission may from time to time require.

4.1(7) *Supervision of operators.* The commission will provide to each operator regular and systematic supervision and in-service training in the keeping of accounts, the selection and purchase of suitable merchandise, the maintenance of a clean and attractive location, and the adoption and utilization of sound business practices and methods which will assure reasonable financial return to the operator and preserve the employment opportunities for the use of successive blind persons.

4.1(8) *Transfer of operators.* When a vacancy occurs the operator who has demonstrated business and managerial ability will be considered for promotion to the more profitable facility, if he or she so desires.

Other factors which will be given consideration relative to transfer include proximity of location of facility to residence of operator, family conditions, health of operator, or other pertinent data considered to be to the advantage of the operator or necessary for the success of the facility.

4.1(9) *Explanation to operator of his or her rights and responsibilities.* The commission shall furnish to each operator a copy of its rules and any agreements under which he or she operates, as evidenced by his or her signed statement.

4.1(10) *Standard agreement.* An agreement in writing containing general terms and any other terms specific to a given vending facility will be executed routinely under these rules and regulations.

[Filed 9/23/76, Notice 8/9/76—published 10/20/76, effective 11/24/76]

CHAPTER 5 EMPLOYMENT PRACTICES

160—5.1(601B) **Procedures for selection and appointment.** Application for any position with the commission for the blind shall be made upon the commission's prescribed application form, which may be obtained from the director of the commission. Applicants are asked to submit their qualifications and credentials to the director as required. Credentials requested may include transcripts of college credit; records of graduate study and copies of theses, dissertations, or other professional writing; employment record; personal data (only as permitted under applicable state and federal laws and regulations); and other information required for thorough assessment of the candidate. The director or any assistant he or she may designate investigates the records and qualifications of all applicants and personally interviews applicants prior to appointment for permanent positions.

160—5.2(601B) **Nondiscrimination.** The commission for the blind does not discriminate in its employment procedures on the basis of age, sex, race, creed, color, national origin, religion, or physical or mental disability when such disability is unrelated to a person's ability to perform the duties of the job.

[Filed 9/23/76, Notice 8/9/76—published 10/20/76, effective 11/24/76]

CHAPTER 6

PROMOTIONS, DEMOTIONS, TRANSFERS, AND TERMINATIONS

160—6.1(601B) Employees—appeals. No permanent employee who has successfully completed a probationary period shall be dismissed, suspended or demoted without just cause. Any such employee shall have the right to appeal his or her dismissal, suspension, or demotion to the director within five working days. The director shall notify the employee of his/her decision in writing within five working days. If not satisfied with the director's decision, the employee may within five working days of written notification by the director file a written appeal through the director first, if desired, to the commission board for a hearing before the board at its next regular meeting or at a special meeting convened for the purpose of hearing the appeal. (The employee may elect to eliminate appeal to the board altogether and proceed directly to the appeal committee described below.) In the event the employee is dissatisfied with the decision of the board, he or she may within five working days of written notification by the board file through the director a written appeal to a committee which shall be established to hear the appeal. The director shall notify the director of the merit employment department of the filing of the appeal within five working days. The committee shall be established as follows:

1. The employee shall designate in writing to the director a person of his or her choice to serve as a member of the appeal committee. This person shall be selected within five working days of written appeal by the employee.

2. The director shall designate in writing to the employee a person of his or her choice to serve as a member of the appeal committee. This person shall be selected within five working days of receipt of written appeal by the employee.

3. The director of the merit employment department shall designate an impartial third member to serve as a moderator of the appeal committee. The merit director shall notify the director and the aggrieved employee of his or her choice within five working days following notification of the appeal.

4. The moderator shall be advised of the other appeal committee members and establish a hearing date mutually acceptable.

The appeal committee shall hear all comments and receive exhibits and papers submitted to it in connection with the hearing. All information, evidence and testimony of witnesses shall be received and reviewed by the full membership of the review panel. No verbatim transcript shall be required, but a summary of the facts shall accompany the recommendation of the appeal committee.

A tape recording may be made to be retained in the merit employment commission files. The decision of the appeal committee will be reached upon the concurrence of any two of the three members. The committee moderator shall present the committee's findings to the employee and the director within fifteen working days of the hearing. The decision of the committee shall be final.

The employee or the commission may petition for judicial review of the committee's decision as provided in section 17A.19 of the Code.

[Filed 9/17/79, Notice 6/13/79—published 10/3/79, effective 11/7/79]

CHAPTER 7
Reserved

CHAPTER 8
Reserved

CHAPTER 9 FACILITIES

160—9.1(601B) Use of facilities—authorization. The incidental or occasional use of commission facilities, and equipment by public and private agencies, organizations, associations, or groups is permissible with the prior authorization of the director. The use of the commission building for meetings of groups of blind persons or other groups interested in the commission program or involving blind persons shall be approved by the director when such activity does not interfere with the conduct of the commission program.

160—9.2(601B) Joint activities. When such use is expected to be continual, significant, and for purposes consistent with the statutory responsibilities of the commission, the commission and the one or more public or private agencies shall enter into an agreement pursuant to chapter 28E of the Code specifying any joint activities undertaken among the parties to the agreement, the budget and manner of financing the undertaking and all other necessary and proper matters.

These rules are intended to implement section 601B.6(8) of the Code.

[Filed 9/17/79, Notice 6/13/79—published 10/3/79, effective 11/7/79]

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190—4.6(56) Approval of notice of dissolution form. The notice of dissolution shall be in conformance with the following example:

Due to space limitations, copies of the forms, [DR-3 rev. 1/77], will not be printed in this publication. Copies of the forms are available upon request from the Campaign Finance Disclosure Commission, State Capitol Building, Des Moines, Iowa 50319.

The effective date of this rule shall be March 2, 1977.

190—4.7(56) Notification of treasurer of receipts. Any person who receives or collects a contribution in support of or opposition to a candidate for public office or a ballot issue shall notify the appropriate committee treasurer and provide necessary information for disclosure reports.

190—4.8(56) "Proceeds" defined. In section 56.6, as amended by section 10.3 "g", HF 431, Acts of the 66th GA, 1975 Session, the word "proceeds" in the first sentence shall mean "the gross receipts from a fund-raising event."

190—4.9(56)* "Incidental expenses" defined. In paragraph (2) of section 56.13 of the Code, as amended by section 15, HF 431, Acts of the 66th GA, 1975 Session, the term "incidental expenses" shall mean "such minor expenses absorbed by the volunteer which result from or arise out of his or her volunteer work."

190—4.10(56) *Rescinded, effective July 14, 1976.

190—4.11(56) Amendment—statements and notices. A committee may amend a previously filed statement of organization or notice of dissolution. To amend a previously filed statement or notice the committee shall file an amended document on the approved form and shall designate on the form in the space provided that the document being filed is an amendment to a previously filed statement or notice. The term "amended document" as used in this rule shall mean "a fully completed document on forms issued by the commission which includes all unchanged information which has been previously submitted and all new or changed information."

190—4.12(56) Amendment—disclosure report. A committee may amend a previously filed disclosure report. To amend a previously filed disclosure report the committee shall file an amendment to the document on the approved form and shall designate on the form in the space provided that the document being filed is an amendment to a previously filed report. The term "amendment to the document" as used in this rule shall mean "a document on forms issued by the commission which includes only that information which is being added, deleted, or changed from a previously submitted report."

190—4.13(56) Filing in error. A committee which is not subject to the Iowa campaign disclosure law but which mistakenly files a statement of organization, disclosure report, or notice of dissolution will not be required to comply with all subsequent filing deadlines. The documents filed by the committee shall be kept in the active committee files until such time as the commission orders the committee's file to be removed from that file and placed in the inactive committee file.

A committee may request the commission to take such action by submitting a written request which details the reasons why the committee is not subject to the Iowa disclosure law. The commission shall act upon such a request at its next regularly scheduled meeting following the date the request is received. Within ten days following the meeting in which the request is considered the committee shall be informed of the commission's action on the request.

*Emergency pursuant to section 17A.5(2)"b"(2) of the Code.

The commission may also order the file of a committee which is not subject to the Iowa disclosure law but which has mistakenly filed a statement of organization, disclosure report, or notice of dissolution removed from the active committee file and placed in the inactive committee file either by acting upon the report and recommendation of the commission staff or by acting upon its own motion.

Any committee file removed from the active committee file under the provisions of this rule shall contain a written copy of the order issued by the commission directing the placement of the committee's file in the inactive committee file.

190—4.14(56) Filing in the wrong place. When a committee files a statement of organization, disclosure report, or notice of dissolution with the campaign finance disclosure commission which should actually have been filed with a county auditor, the same shall not constitute a proper filing and does not eliminate a committee's responsibility to comply with the disclosure law. When such an improper filing is made with the commission, the commission will return the document to the committee by certified letter, informing the committee that an improper filing has been made, if a return address is provided.

190—4.15(56) Freewill donations. The good faith collection of donations voluntarily made to a committee or a candidate, such as a "pass the hat" or a "can collection", shall not be construed to be an anonymous donation which a candidate or committee is prohibited from spending by chapter 57, section 16 of the 66th General Assembly, 1975 session laws, provided the following requirements are met.

1. Attached to each collection container or prominently displayed in the immediate vicinity thereof, there must be a written statement to the effect that contributions in excess of ten dollars are illegal unless the contributor provides his or her name, address, and amount of contribution, and
2. The name of the person organizing or co-ordinating the freewill donation as well as the name, the date, and location of the event must be recorded, and, if the total amount collected exceeds the reporting amount in section 56.6(3)"b" of the Code, then the freewill donation organizer or co-ordinator must be identified by name and address on the appropriate disclosure report.

190—4.16(56)* Out-of-state contributions. Before an Iowa committee accepts a contribution from a committee outside of Iowa, the Iowa committee must contact the commission to determine if the out-of-state committee has submitted a statement of organization and appropriate disclosure reports with the commission. Iowa committees may not accept contributions from out-of-state committees who have not filed a statement of organization and appropriate disclosure reports with the commission.

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*Effective date of rule 4.16 delayed by the administrative Rules Review Committee forty-five days after convening of the next General Assembly pursuant to §17A.8(9).

COMPTROLLER, STATE[270]

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CHAPTER 1 AUDITING CLAIMS

All vouchers and claims required by law to be audited by the state comptroller should conform to the following rules.

270—1.1(8) General provisions.

1.1(1) *Submission of claims and approval.* All claims shall be typewritten, or written in ink, and be itemized and certified by the claimant.

EXCEPTION: The claimant's certification is not needed when the original invoice is attached to the claim. The original invoice shall indicate in detail the items of service, expense, thing furnished, or contract upon which payment is sought.

Approval of the claim shall be certified thereon by the head of the department, or his deputy, or chairman of the board, or commission or its executive officer, or by a person delegated by the department head to fulfill this responsibility. A list of authorized signatures shall be provided to the state comptroller's office. If a rubber stamp signature is used, the claim shall be signed or initialed by the employee authorized to use the rubber stamp.

All travel claims submitted shall be the actual expense incurred (not exceeding maximum limitations) by the claimant, and shall not include expenses paid for other individuals, or for the purchase of miscellaneous items which are not needed in the performance of official duties while traveling. All travel vouchers shall contain the social security number of the employee or other individual identification (with prior written approval by the state comptroller).

All claims shall show in the space provided, the Code reference for the appropriation or fund from which the claim is payable.

1.1(2) *Property claims and real estate claims.* Claims for personal property sold, the acquisition of real estate, or services rendered to the state, must have the original invoices or other documentation attached whenever possible to do so.

1.1(3) *Form for travel claim.* All travel claims are to be on a voucher 4 or on a form approved (in writing) by the state comptroller.

1.1(4) *Intradepartmental rules on claims.* All intradepartmental rules pertaining to the auditing of claims internally shall be subject to the review and approval (in writing) of the state comptroller.

270—1.2(8) *Official travel.*

1.2(1)* *Personal funds to be supplied.* All employees shall provide themselves with sufficient funds for all current expenses. Any exception to this will be considered under the provisions of section 8.6(6) of the Code. See subrules 1.2(3) and 1.2(4) regarding travel advances.

1.2(2) *Reimbursable expenses and travel allowances.* The reimbursement allowed shall be limited to an allowance for subsistence and transportation, and other actual and necessary travel expenses incurred by a traveler in the performance of official duties subject to applicable limitations. All travel reimbursements shall be made on the basis of the usually traveled route.

1.2(3) *Travel advance.* State employees who are required to travel out-of-state may apply for a travel advance if the anticipated out-of-pocket expenses are in excess of \$200.00. An advance may not exceed 80% of the anticipated expenses. In addition, employees shall comply with the conditions set forth below:

a. The travel advance shall be deducted from the expense voucher submitted by the employee upon completion of the trip.

b. If for any reason, an employee does not make the anticipated trip, the travel advance shall be immediately returned to the state.

c. The employee shall give the state comptroller's office authority to recover funds owed the state (through payroll deduction) which have not been repaid within thirty days of completion of the trip.

d. The state comptroller's office reserves the right to refuse advances when funds are currently owed the state or when there have been prior abuses.

1.2(4)* *Permanent in-state travel advance.* State employees who are not covered by collective bargaining agreements negotiated under the provisions of chapter 20 of the Code may be eligible for a permanent in-state travel advance if they meet and agree to the following conditions:

a. Employees whose in-state travel expense reimbursements average between \$100.00 and \$150.00 per month for the preceding twelve months shall receive upon written request a permanent travel allowance of \$100.00.

b. Employees whose in-state travel expense reimbursements average over \$150.00 per month for the preceding twelve months shall receive upon written request a permanent travel allowance of \$150.00.

c. The state comptroller shall have authority to deduct the permanent travel advance from the employees' last paychecks upon separation from state service.

d. The state comptroller and employing agency reserve the right to review the employee's monthly travel expenses and should the employee fail to meet the above requirements, or become ineligible due to a change in duties or job assignment, the advance will be withdrawn (through payroll deduction) following proper notification.

1.2(5) *Official domicile defined.*

*Emergency, pursuant to §17A.5(2)"b"(2) of the Code.

a. Office employee. The official domicile of an officer or employee assigned to an office is the city, town or metropolitan area (as established by the state comptroller) within which such office is located. Transportation costs between any such employee's residence and his office, and subsistence within the limits of an employee's official domicile are not reimbursable.

b. Field employees. The official domicile of field employees shall be designated by the administrative head of the state agency. Subsistence within the limits of an employee's official domicile shall not be allowed. No transportation costs will be allowed between any such employee's place of residence and his office.

c. Nonreimbursable travel. When additional expense is incurred by reason of an employee residing in a city or town other than his official domicile, the additional expense is otherwise caused by an employee's choice of residence, and is not reimbursable.

270—1.3(8) Temporary duty assignment.

1.3(1) Subsistence while on temporary duty assignment. When an employee is on temporary duty assignment, subsistence may be allowed for each day (including Saturdays, Sundays and holidays) from the time of departure from his official domicile until his return to the previous official domicile or a newly assigned domicile.

1.3(2) Weekends. When authorized by the administrative head of the agency or his designated representative, an employee who is on temporary duty status will be reimbursed for expenses involved while returning home for the weekend provided the amount thereof, including transportation, does not exceed the amount that would have been allowable had the claimant remained at his temporary duty station.

270—1.4(8) Authorization for travel.

1.4(1) Approval by administrative head of the agency. All official travel shall be authorized by the administrative head of the agency or his designated representative, prior to the travel whenever possible. This applies to in-state travel which is not subject to executive council approval.

1.4(2) Out-of-state. Official travel out of the state must receive prior approval in writing from the executive council of the state except those employees exempt by Code.

1.4(3) Requests for out-of-state travel. All requests for out-of-state travel shall be on a form approved by the executive council, and include such information as they deem necessary.

1.4(4) Most economical or advantageous mode of travel. Reimbursement for transportation approved by the administrative head of the agency shall be for the most economical or advantageous mode and by the usually traveled route.

270—1.5(8) Mode of transportation.

1.5(1) Airline travel accommodations. When the administrative head of the agency determines that airline travel is the most economical or advantageous to the state, the use of airline travel may be authorized. The most economical mode of airline travel is considered to be coach or economy class, if available.

1.5(2) Train travel. In cases where train travel is utilized, the most economical mode shall be considered coach fare, if available.

1.5(3) Purchase of tickets. It shall be the employee's responsibility to purchase the ticket for whatever mode of transportation that is determined to be the most economical. Reimbursement will be made by attaching the ticket to the employee travel voucher. Refunds received on any unused portion of the ticket shall be shown and deducted from the original ticket. Any state agency which uses a travel agency must receive prior written approval from the state comptroller.

1.5(4) Use of privately owned automobile. Authorized use of a privately owned vehicle will be subject to the rules of the vehicle dispatcher.

a. In-state. Where use of a privately owned vehicle is authorized by the vehicle dispatcher

1.7(5) *Stenographic or typewriting services.* Charges for official stenographic or typewriting services will be allowed while on official travel.

1.7(6) *Purchase of supplies.* The purchase of stationery and all other similar supplies shall be allowed in emergencies warranting their use for handling of official business while on official travel, and shall be submitted and certified on a voucher 1 (or other approved form) with the proper receipts attached.

1.7(7) *Parking.* Parking will be allowed for state and private cars at an airport during the employee's flight.

1.7(8) *Registration fees.* The payment of registration fees which are required for participation in meetings shall be allowed. Registration fees shall be supported by the official receipt of the conference or convention subject to the following limitations:

a. Expenditures for payment of registration fees for the purpose of obtaining the privileges of membership or other personal benefits from an organization are not reimbursable. Memberships in organizations must be in the name of the state agency and have executive council approval.

b. Registration fees paid by the traveler will be claimed for reimbursement as a miscellaneous nonsubsistence expense and a receipt must be attached to the claim.

c. Reimbursement of registration fees, at the official domicile, may require prior written approval of the state comptroller.

270—1.8(8) *State-owned vehicle.* Any expense other than parking should not be claimed on the expense voucher but should be reimbursed through procedures established by the vehicle dispatcher's office.

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July 5, 1974, December 23, 1974]

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[Filed emergency 8/1/77—published 8/24/77, effective 8/1/77]

[Filed 12/12/77, Notice 8/24/77—published 12/28/77, effective 2/1/78]

[Filed emergency 6/22/79—published 7/11/79, effective 7/1/79]

CHAPTER 2 EMPLOYEE ORGANIZATION DUES

270—2.1(8) *General provisions.* The state of Iowa may extend to recognized employee organizations the right to membership dues deduction upon presentation of dues deduction authorization cards signed by the state employee.

"Employee organization" means an organization of any kind which includes state employees and which has as its primary purposes the representation of state employees in their employment relations with public employers.

270—2.2(8) *Membership qualifications for payroll deductions.* Payroll deduction for employee organization dues shall be implemented if the membership includes fifty state employees. To qualify for payroll deduction of membership dues an approved employee organization must have at least fifty state employees as members. In addition, each approved organization must have at least fifty members enrolled in payroll deduction of membership dues. Payroll deduction programs in this category shall be terminated at the end of the calendar year for each employee organization if the organization has less than fifty state employees participating in payroll deductions as of September 30, of each year.

270—2.3(8) *Prior approval.* All employee organizations eligible under 2.2(8) shall submit for approval a written application to the state comptroller stating when the organization was formed, the purpose of the organization, documentation to support the minimum requirements of fifty state employees and the annual employee organization dues. The state comptroller shall start payroll deductions for approved organizations within three months from the date the written application was submitted to the state comptroller.

270—2.4(8) Annual certification. After the initial application has been approved, each employee organization shall be required to certify by November 1 the annual dues for the following year and the number of participating state employees as of September 30 of that year.

270—2.5(8) Employee deduction limited to one organization. All eligible employees under this chapter may be limited to having a payroll deduction with only one authorized employee's organization at any one time.

270—2.6(8) Conditions to be met for payroll deduction.

2.6(1) When deducted. The employee's authorized deduction shall be made from the second pay date of each calendar month.

2.6(2) Authorization form. Authorizations to deduct shall be certified by the employee on a form prescribed by the state comptroller's office.

2.6(3) Minimum amount. The minimum deduction shall be twenty-five cents per month.

2.6(4) Effective date. Authorization cards received by the appointing authority by the thirtieth of the month shall be effective the first of the following month. The deduction amount shall be calculated by dividing the annual dues for the organization by the twelve calendar months. Employees enrolling during a calendar year shall have only dues for that portion of the year remaining deducted through December.

270—2.6(5) Authorization cards. All employee organizations authorized under this chapter shall be required to issue an authorization card to all participating state employees. The authorization cards are to be given to the appointing authority of the department in which the employee works, and are to be filed in the employee's individual file to substantiate the payroll deduction. Any employee wishing to terminate the deduction shall be required to give thirty days' notice in writing to the appointing authority of the department in which the employee works.

270—2.7(8) Letter of authorization. All employee organizations eligible under this chapter shall send a letter to the state comptroller, certified by their executive board, stating the organization name to whom the monthly state warrant is to be made payable (individuals cannot be used), and the address of the organization to where the warrant is to be mailed. The state comptroller shall mail the monthly payment to each organization within five working days after the second pay date of each calendar month. Support documentation shall be limited to a listing of employees and amount deducted.

270—2.8(8) State held harmless. Employee organizations shall indemnify and save the state harmless against any and all claims, demands, suits, or other forms of liability which may arise out of any action taken or not taken by the state for the purpose of complying with the provisions of this chapter.

[Filed July 25, 1975]

CHAPTER 3*

EMPLOYEE PAYROLL DEDUCTIONS

"CHARITABLE ORGANIZATIONS"

270—3.1(79) General provisions. The state of Iowa may extend to eligible charitable organizations the right to receive contribution deductions from state employees upon presentation of payroll deduction authorization cards signed by the state employees.

*Emergency after Notice, pursuant to §17A.5(2)"b"(2) of the Code.

270—3.2(79) Qualifications. To qualify to receive contributions an organization must:

3.2(1) Be eligible to receive contributions which may be deducted on the contributor's Iowa individual income tax return.

3.2(2) Have one hundred or more eligible state officers and employees participating for any payroll system except as follows:

a. In the case of employees at the university of northern Iowa, fifty or more.

b. In the case of employees at the Iowa school for the deaf and the Iowa braille and sight-saving school, twenty-five or more participants.

270—3.3(79) Enrollment period. The enrollment period shall be designated by the charitable organization.

3.3(1) Employees will be provided a list of qualified organizations at least semiannually.

3.3(2) Reserved.

270—3.4(8) Certification. In order to qualify as "Charitable Organization" under the terms of this program, each organization must file an annual certification with the administrator of the payroll system. The certification must show:

3.4(1) That the organization is eligible to receive contributions as defined in 270—3.1(79).

3.4(2) That the organization has met the requirements for tax deduction and number of participants as defined in subrule 3.2(2).

270—3.5(79) Payroll system. A payroll system for the purpose of this chapter is any one of the following:

1. State of Iowa centralized (Including the Iowa state fair board)

2. Department of transportation

3. Iowa state university of science and technology

4. State university of Iowa.

5. University of northern Iowa.

6. Iowa braille and sight saving school.

7. Iowa school for the deaf.

270—3.6(79) Forms. The administration of payroll deductions for charitable organizations must be done on authorization forms approved by the state comptroller. The responsible official in charge of each payroll system may be designated by the state comptroller as an authorized representative to approve authorized forms for that payroll system.

270—3.7(79) Payee. When there is more than one unit within an eligible charitable organization, the designated payee is the organization that qualified under the provisions of 270—3.2(79).

270—3.8(79) Contribution limits. Contributions for payroll deductions must be a minimum of one dollar per deduction. The frequency of the deductions shall be compatible with the payroll system.

270—3.9(79) Distribution of literature. The office of the state comptroller will not distribute literature for charitable organizations with payroll materials.

270—3.10(79) Number of contributions. Each payroll system shall provide for each employee to make contributions to four charitable organizations. The administrator of each payroll system may elect to provide for contributions to a maximum of nine charitable organizations for each employee.

270—3.11(79) Cash contributions. No cash contributions will be accepted or administered through the payroll process or system.

270—3.12(79) Terminations. Any employee wishing to terminate the deduction shall be required to give thirty days' notice in writing to the appointing authority of the department in which the employee works.

270—3.13(79) Authorization forms. All organizations authorized under this chapter shall be required to issue an annual authorization form to all participating state employees. Annual authorization forms will be required from participating employees. The authorization forms are to be given to the appointing authority of the department in which the employee works, and are to be filed in the employee's individual file to substantiate the payroll deductions.

270—3.14(79) State held harmless. Charitable organizations shall indemnify and save the state harmless against any and all claims, demands, suits, or other forms of liability which may arise out of any action taken or not taken by the state for the purpose of complying with the provisions of this chapter.

270—3.15(79) Remittance. The administrator of the payroll system shall mail the monthly payment to each organization within ten working days after the last pay date of each calendar month. Support documentation shall be limited to a listing of employees and amount deducted.

These rules are intended to implement sections 79.14 and 79.15 of the Code.

[Filed emergency after Notices 9/7/79, Notice 6/13/79, 6/27/79, 8/8/79—published 10/3/79, effective 9/7/79]

CHAPTER 4 DEFERRED COMPENSATION PROGRAM

270—4.1(8) Administration. The state comptroller, or his designee, has been authorized by the executive council of Iowa to administer the deferred compensation program for employees of the state of Iowa, except for those employees of the board of regents institutions.

CONSERVATION COMMISSION[290]

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Winter Grape

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Wild Rice

290—19.3(107) Revision of lists.

19.3(1) The endangered and threatened species lists will be continuously monitored by the commission and may be amended as needed. In accordance with chapter 109A.3 of the Code, the lists will be revised a minimum of every two years.

This rule is intended to implement section 109A.3 of the Code.

[Filed 8/31/77, Notice 7/27/77—published 9/21/77, effective 10/26/77]

**CHAPTER 20
TROTLINES**

290—20.1(109) Trotlines where permitted. It shall be lawful to use trotlines or throw lines in all rivers and streams of the state, except in Mitchell, Howard, Winneshiek, Allamakee, Fayette, Clayton, Delaware, Dubuque, and Jackson Counties. Trotlines or throw lines may be used in the above nine counties in the Maquoketa River, Jackson County; Turkey River, mouth to state highway 13; and Upper Iowa River, mouth to state highway 76.

This rule is intended to implement section 109.74 of the Code.

[Filed 1/9/79, Notice 11/29/78—published 2/7/79, effective 3/14/79]

**CHAPTERS 21 and 22
Reserved****CHAPTER 23
WILDLIFE HABITAT STAMP REVENUE COST SHARING WITH LOCAL ENTITIES**

290—23.1(110) Purpose. The purpose of this rule is to designate procedures for allotments of wildlife habitat stamp revenues to local entities. These funds must be used specifically for the acquisition of whole or partial interests in land from willing sellers for use as wildlife habitats, and the development and enhancement of wildlife lands and habitat areas. The state conservation commission, hereinafter referred to as the commission, acting through its director, will administer the stamp funds for the purposes as stated in the law at both the state and local levels.

290—23.2(110) Availability of funds. Habitat stamp funds are dependent on stamp sales. The amount of monies available at any time will be determined by revenues received by the commission. Final stamp sales for each calendar year will be determined by July 1 of the following year.

23.2(1) Local share. Funds available for local entities shall be specified in the commission's budget in accordance with legislative appropriations. At least fifty percent of the stamp revenues will be apportioned to local entities. Funds will be made available during a fiscal year of July 1 to June 30.

23.2(2) Distribution. After deducting five percent to be held for contingencies, the remaining local share will be available on a semiannual basis each year.

290—23.3(110) Eligibility. Only those public agencies authorized by law to spend funds for wildlife habitat shall be eligible to participate in this program.

290—23.4(110) Project limitations. Because of administrative costs, no application for assistance totaling less than \$300 (total project cost—\$400) will be considered.

290—23.5(110) Reimbursement eligibility. No project shall be eligible for cost share reimbursement unless approved by the commission prior to its initiation. Only the following types of project expenditures will be eligible for cost sharing assistance.

23.5(1) Acquisition projects. Lands or rights thereto to be acquired in fee or by any other instrument shall be appraised by a competent appraiser and the appraisal approved by the commission staff prior to any acquisition. Reimbursement will not be approved for more than seventy-five percent of the approved appraised value.

23.5(2) Development projects. Eligible expenditures for development projects shall include contracts, the purchase of material and supplies, rentals, and extra labor hired only for the specific project. Donated labor, materials and equipment use, and force account labor and equipment use shall not be eligible for cost sharing assistance. (Force account means the agency's own labor and equipment use.) Development projects are limited to lands legally controlled by the grantee for the expected life of the project.

290—23.6(110) Application for assistance. Applications shall provide sufficient detail as to clearly describe the scope of the project.

23.6(1) Form. Applications shall be submitted on forms provided by the commission.

23.6(2) Time of submission. Applications for funds shall be reviewed and selected for funding during November of 1979, and during January and July of each succeeding year. Applications must be received in acceptable form by the State Conservation Commission, Wallace State Office Building, Des Moines, Iowa 50319, by the close of business on the last business day of the month preceding the selection month. Upon timely notice to eligible recipients, additional selection periods may be scheduled if necessary to expedite the distribution of these funds.

23.6(3) Local funding. An applicant shall certify that it has committed its share of project costs and that these funds are available.

23.6(4) Development projects. An application for development project assistance may include development on more than one area if the development is of a like nature (e.g., planting trees and shrubs).

290—23.7(110) Project review and selection.

23.7(1) Review and selection committee. A review and selection committee, hereinafter referred to as the committee, composed of the superintendent of grants-in-aid as chairman, the wildlife superintendent, the superintendent of planning, the administrator of county conservation board activities, and three persons appointed by the director to represent county conservation boards shall determine which grant applications and amendment requests shall be selected for funding.

23.7(2) Consideration withheld. The committee will not consider any application which, on the date of the selection session, is not complete, or for which additional pertinent information has been requested and not received.

23.7(3) Application rating system. The committee will apply a numerical rating system to each grant application which is considered for fund assistance. The following criteria, with a weight factor for each, will be considered:

Habitat needs	3
Habitat quality	3
Cost effectiveness	3
Agency's financial need	2
Site quality	2
Project expansion potential	1

Each criterion will be given a score of from 1 to 10 which is then multiplied by the weight factor. Two additional criteria will be considered in the rating system:

a. Prior assistance. Any applicant that has never received a prior grant will be given a bonus of ten points.

b. Active projects. Any applicant that has one active project at the time of application rating will be assessed five penalty points and five penalty points will be assessed for each additional active project. An active project shall cease to be active when all acquisition or development or both has been satisfactorily completed and an acceptable final reimbursement billing has been submitted to the commission.

All points will be totaled for each application and those applications receiving the highest scores will be selected for fund assistance to the extent of the allotment for each semiannual period.

23.7(4) Applications not selected for fund assistance. All applications not selected for fund assistance will be retained on file for consideration and possible funding during subsequent review periods or until a request for withdrawal is received from the applicant. Applications which have been considered and not selected for funding during three consecutive review periods will be returned to the applicant.

23.7(5) Rating system not used. The rating system will not be applied during any semiannual period in which the total grant request, including backlogged applications, is less than the allotment. Applications will be reviewed only to determine eligibility and overall desirability.

290—23.8(110) Commission review. The state conservation commission will review all committee recommendations semiannually at the next following commission meeting. The commission may reject any application selected for funding.

290—23.9(110) Grant amendments. Projects for which grants have been approved may be amended to increase or decrease project scope or to increase or decrease project costs and fund assistance. Project changes must be approved prior to their inception. Amendments to increase project costs and fund assistance due to cost overruns will not be approved where funds have already been committed or the work already performed.

290—23.10(110) Timely commencement of projects. Grant recipients are expected to carry out their projects in an expeditious manner. Projects for which grants are approved shall be commenced within six months of the stated initiation date as shown by the grant request. Failure to do so may be cause for termination of the project and cancellation of the grant.

290—23.11(110) Project period. A project period which is commensurate with the work to be accomplished will be assigned to each project. Project period extensions will be granted only in a case of extenuating circumstances.

290—23.12(110) Reimbursements.

23.12(1) Grant amount. Grant recipients will be reimbursed seventy-five percent of all eligible costs incurred on a project up to the amount of the grant unless otherwise specified in the project agreement.

23.12(2) Project billings. Grant recipients shall submit billings for reimbursements on forms provided by the commission.

23.12(3) Project billing frequency. Project billings for development shall be submitted on the following basis:

a. Up to \$10,000 total project cost—one billing.

b. Over \$10,000 total project cost—no more than two billings.

23.12(4) Final project billing. A final project billing shall be submitted within ninety days following the end of a project period. Failure to do so may be cause for termination of the project with no further reimbursement to the grant recipient.

23.12(5) Documentation. Grant recipients shall provide documentation as required by the commission to substantiate all costs incurred on a project.

23.12(6) Reimbursement withheld. Ten percent of the total reimbursement due any grant recipient for a development project will be withheld pending a final site inspection or until any irregularities discovered as a result of a final inspection have been resolved.

290—23.13(110) Recordkeeping and retention. A grant recipient shall keep adequate records relating to its administration of a project, particularly relating to all incurred costs. These records shall be available for audit by appropriate personnel of the commission and the state auditor's office. All records shall be retained in accordance with state laws.

290—23.14(110) Penalties. Whenever property acquired or developed with habitat stamp fund assistance passes from the control of the grantee or is used for other purposes which conflict with the project purpose, it will be considered an unlawful use of the funds.

23.14(1) Remedy. Funds thus used unlawfully must be returned to the commission, or a property of equal value at current market prices and with commensurate benefits as wildlife habitat must be acquired with local, noncost shared funds to replace it. Such replacement must be approved by the commission.

23.14(2) Land disposal. Whenever it has been determined and agreed upon by the grantee and the commission that property acquired or developed with habitat stamp fund assistance is no longer of value for the project purpose, the property, with the approval of the commission, may be disposed of and the proceeds thereof used to acquire or develop an area of equal value.

23.14(3) Ineligibility. Whenever a local agency shall be in violation of this rule, it shall be ineligible for further assistance until the matter has been resolved to the satisfaction of the commission.

These rules are intended to implement section 110.3 of the Code.

[Filed 9/7/79, Notice 3/7/79—published 10/3/79, effective 11/7/79]

CHAPTERS 24 and 25 Reserved

DIVISION OF LANDS AND WATERS

CHAPTER 26*

*Suspended and held in abeyance April 9, 1974 until January 1, 1975

SPECIAL WATER ACTIVITY RULES—GREEN VALLEY LAKE, UNION COUNTY

290—26.1(106) General. For experimental purposes as provided in Chapter 1060, Acts of the Sixty-third General Assembly, these special rules shall apply to Green Valley Lake from June 1 to September 10 of each year.

290—26.2(106) **Inboard boats.** No inboard boats permitted.

290—26.3(106) **Racing craft.** No racing-type craft permitted.

290—26.4(106) **Wake.** For the purposes of these special rules, a wake means "any movement of water created by a vessel which adversely affects the activities of another person who is involved in activities approved for that area or which may adversely affect the natural features of the shoreline."

290—26.5(106) **Speed.** All boats must maintain a no-wake speed on the entire lake between the hours of sunset and 10:30 p.m., also between 4:00 a.m. and 10:00 a.m.

290—26.6(106) **Hours.** No boating is permitted on the lake between the hours of 10:30 p.m. and 4:00 a.m.

290—26.7(106) **Ski zone.** A portion of the west arm of Green Valley Lake shall be designated as a ski zone and shall be marked by controlled area buoys as designated by Iowa's Uniform Waterway Marking System. This designated area shall be referred to as the "ski zone."

26.7(1) Water skiing and general boating are permitted in the designated ski zone between 10:00 a.m. and sunset.

26.7(2) All boats must maintain a no-wake speed when outside the ski zone between the hours of 10:00 a.m. and sunset.

290—26.8(106) **Traffic pattern.** In the ski zone all boats must keep to the right of the "Center of the Channel" buoys which shall be identified by their black and white stripe design as designated by Iowa's Uniform Waterway Marking System.

290—26.9(106) **Designated activities in ski zone.** No one shall be permitted in the water in the ski zone except those persons engaged in water skiing or similar activity.

290—26.10(106) **Designated areas.** No person shall be in the water outside the ski zone except in the designated beach area and in accordance with the park rules.

290—26.11(106) **Traffic.** All boats in the ski zone not engaged in water skiing or similar activity shall keep out of the general traffic pattern of the boats pulling skiers.

290—26.12(106) **Lifesaving device.** All persons engaged in water skiing, including the use of surfboard-type devices, shall wear a coast guard approved lifesaving device.

290—26.13(106) **Speed.** In the ski zone no boat shall be operated at speeds greater than five miles per hour when within fifty feet of another craft or person.

290—26.14(106) **Distance from shore.** No boat shall be operated within one hundred feet of shore at speeds greater than five miles per hour.

290—26.15(106) **Horsepower limitation.** Between the dates of September 11 and May 31, inclusive, no motorboats of any type will be permitted on Green Valley Lake except displacement-type craft equipped with outboard motors not to exceed six horsepower shall be permitted and all departmental rules regulating boating on artificial lakes over one hundred acres in size shall apply to Green Valley Lake.



The first of these is the fact that the
government has been unable to raise the
necessary funds to carry out its
policy of expansion.



The second is the fact that the
government has been unable to raise the
necessary funds to carry out its
policy of expansion.



The third is the fact that the
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The ninth is the fact that the
government has been unable to raise the
necessary funds to carry out its
policy of expansion.

290—62.5(17A,107,111) Exceptions for compliance with federal rules and guidelines. Whenever adherence to these contracting procedures would result in the loss of federal aid for any public improvement project or professional services project, the applicable federal rules or guidelines shall be followed to the extent necessary to qualify for the federal funds.
[Filed 8/2/77, Notice, 5/4/77—published 8/24/77, effective 9/28/77]

CHAPTER 63 EXAMINATION AND COPYING OF PUBLIC RECORDS

290—63.1(68A) General conditions pertaining to the examination of public records. All citizens of Iowa wishing to examine or copy agency records pursuant to chapter 68A of the Iowa Code may do so by requesting copies of the desired records by ordinary mail, by telephone to 515/281-5145, or by making such request for copying or examination in person at the central office, Wallace State Office Building, 900 East Grand, Des Moines, Iowa 50319.

This rule shall not apply to requests that can be handled by supplying the requesting party an agency brochure, report, pamphlet, map, press package, news release, form, or other printed material which the agency routinely makes available to the public at no charge or for a charge as established by the agency and approved by the superintendent of printing.

290—63.2(68A) Assessment of charges for examination or copying of agency records. Charges for examination or copying of public records will be assessed to the citizen of Iowa making such request as follows:

63.2(1) Any citizen of Iowa making a request pursuant to this rule where such request or requests results in less than one hour of assistance by an agency employee and fewer than ten letter or legal size copies within any thirty-day period shall not be assessed a charge. For requests which exceed this level, a minimum charge of two dollars or the actual cost will be assessed, whichever is greater.

63.2(2) The actual cost will be charged for any copy, blueprint, picture, or any other work product which is a copy of a public record. Surplus copies may be provided in fulfillment of requests at the same cost per copy as previously described.

63.2(3) The charge for assistance provided by agency employees is the number of labor-hours multiplied by the actual wage rate including fringe benefits. The charge for agency overhead is fifteen percent of the labor, copy, and work product charges.

63.2(4) Where the subject records are maintained by computer, charges are determined by adding together the charges as billed to the agency by the centralized data processing division of the state comptroller's office, any agency labor charges, and overhead.

63.2(5) Requests to examine or copy which result in a charge as previously described shall be honored only if the requesting party is not more than thirty days in arrears for the payment of previous services relating to this rule.

290—63.3(68A) Waiver of charges. Charges for examination, copies, or other work products requested by a citizen in his or her capacity as a representative of another governmental entity or where copies are provided under provisions of a written contract are waived.

These rules are intended to implement section 68A.3 of the Code.

[Filed 9/7/79, Notice 6/27/79—published 10/3/79, effective 11/12/79]

CHAPTER 64 Reserved

SECRET

1. The purpose of this document is to provide information regarding the activities of the [redacted] in the [redacted] area.

2. The [redacted] has been observed in the [redacted] area, and it is believed that it is engaged in [redacted] activities. The [redacted] is believed to be a [redacted] organization, and it is believed that it is engaged in [redacted] activities.

3. The [redacted] is believed to be a [redacted] organization, and it is believed that it is engaged in [redacted] activities. The [redacted] is believed to be a [redacted] organization, and it is believed that it is engaged in [redacted] activities.

4. The [redacted] is believed to be a [redacted] organization, and it is believed that it is engaged in [redacted] activities. The [redacted] is believed to be a [redacted] organization, and it is believed that it is engaged in [redacted] activities.

SECRET

5. The [redacted] is believed to be a [redacted] organization, and it is believed that it is engaged in [redacted] activities. The [redacted] is believed to be a [redacted] organization, and it is believed that it is engaged in [redacted] activities.

SECRET

CHAPTER 110
INLAND COMMERCIAL FISHING SEASON

290—110.1(109) Areas. Inland commercial fishing shall be limited to the following areas: Lake Odessa, Louisa County; Sabula Lake, Jackson County; Red Rock Reservoir Roberts Creek Lake, Marion County; and Coralville Reservoir, Johnson County.

110.1(1) Limitations. Geographic limitations of commercial fishing at the Red Rock Reservoir shall be from the dam west to that point above State Highway 14 where the Des Moines River is within bank and State Highway 92 on the south. Geographic limitations of commercial fishing at Coralville Reservoir shall be from the dam to County Road "O".

110.1(2) Reserved.

290—110.2(109) Seasons and hours. The commercial fishing season on Sabula Lake, Red Rock Reservoir, and Coralville Reservoir shall be a continuous open season. The commercial fishing season at Lake Odessa and Louisville Bend shall be December 15 through August 31. The commercial fishing season at Roberts Creek Lake shall be from October 1 through April 30. Commercial fishing at Lake Odessa shall be limited to one-half hour after sunset to one-half hour before sunrise during the period of April 15 through August 31. Commercial fishing shall be closed September 1 through December 1 at Coralville Reservoir above State Highway 218 and at Red Rock Reservoir above State Highway 14.

290—110.3(109) Methods and attendance. Inland commercial fishing will be limited to the use of trammel and gill nets at Lake Odessa, Sabula Lake, Red Rock Reservoir, Roberts Creek Lake and Coralville Reservoir. Each net must be at least one hundred feet long with a mesh bar measure of three inches or more. All commercial fishing gear must be attended at least once during each forty-eight hour period, unless otherwise specified. Commercial fishing nets set in Red Rock Reservoir during the period from May 28 through September 6 shall be constantly attended or set at least three feet beneath the surface of the water. Commercial fishing nets set in Red Rock Reservoir during the period from March 16 through April 30 and in Coralville Reservoir during the period from May 28 through September 6 shall be constantly attended. Commercial fishing nets not in use, fish boxes, and fish taken by commercial fishing shall be removed from public property at the close of each day's operation. Commercial fishing nets, fish boxes and fish shall not be left at public boat landings unless such items are stored in a vehicle properly parked in a parking lot. Use of the West Overlook and Sugar Bottom Boat Ramps at Coralville Reservoir for loading and unloading commercial fishing equipment and fish shall be prohibited during the period from May 28 through September 6. Commercial fishing buoys shall be subject to the provisions of departmental rule Chapter 31 which relates to navigation aids.

290—110.4(109) Species. Permissive catch is limited to the following fish families: Catostomidae (sucker, buffalo), Cyprinidae (carp) and Scraenidae (drum). All other species taken, except gar, must be returned, unharmed, to the water immediately. Gar must be destroyed as required in section 109.114 of the Code.

290—110.5(109) Permits. Inland commercial fishing is limited to permit holders. Applications for permits must be made in writing to the state conservation commission office in Des Moines, Iowa. Permits will be issued free of charge. Permittees must comply with the commercial fishing license provisions as set forth in section 110.1 of the Code. All tackle, when in use, must be licensed and tagged with a metal tag, provided by the commission, identifying the equipment and license for its use. Officers appointed by the commission shall have the authority to confiscate any such commercial fishing gear when found in use without such tags attached.

290—110.6(109) Report of catch. Monthly records of catch must be kept by the permit holder and returned no later than ten days after the month has ended. Failure to return monthly records will be cause for permit revocation.

290—110.7(109) Compliance. Permits will be revoked for any individual failing to comply with the provisions of this rule.

These rules are intended to implement section 109.17 of the Code.

[Filed 8/29/75]

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ENERGY POLICY COUNCIL[380]

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CHAPTER 1 DEFINITIONS

380—1.1(93) General.

1.1(1) *Meaning.* For the purpose of these rules, the following terms shall have the meaning indicated in this chapter.

1.1(2) *Scope.* No attempt is made to define ordinary words which are used in accordance with their established dictionary meanings, except where the context otherwise requires and it is necessary to define the meaning as used in these rules to avoid misunderstanding.

380—1.2(93) Definition of terms.

1.2(1) *Council.* The energy policy council established in section 93.2, Code of Iowa.

1.2(2) *Supplier.* Any person engaged in the business of selling, importing, storing or generating energy sources in Iowa.

1.2(3) *Director.* The director of energy policy or his designee.

1.2(4) *Deputy director.* The deputy director of the Iowa energy policy council.

1.2(5) *Person.* An individual, corporation, a company, a governmental unit, a state agency, an association, a firm, a partnership, a society, or any other organization or institution.

1.2(6) *Sitting members.* The number of members presently serving on the council not counting vacant positions.

[Filed 5/27/77, Notice 4/20/77—published 6/15/77, effective 7/20/77]

[Filed 9/14/79, Notice 5/30/79—published 10/3/79, effective 11/7/79]

CHAPTER 2 DESCRIPTION OF ORGANIZATION AND FUNCTIONS

380—2.1(93) *Scope.* This chapter is intended to fulfill the requirements of section 17A.3(1)“a” and 17A.3(1)“b” of the Code. Authority of the council is codified in chapter 93 of the Code.

380—2.2(93) *Purpose and functions.* The purpose of the council is to advise the governor and the general assembly on energy related matters and recommend to them state policy for development, utilization and conservation of all energy sources in the state. In furtherance of these purposes, the following functions are authorized.

2.2(1) Establishment of an energy data bank and data gathering (voluntarily or through subpoena powers of 93.7(3), Code of Iowa) sufficient to sustain the data bank.

2.2(2) Development of public education and communication programs in energy use and conservation.

2.2(3) Preparation of timely reports on energy to the governor and the general assembly.

2.2(4) Co-ordination with other states on fuel allocation problems.

2.2(5) Reduction of hardship due to energy supply shortages through allocation of state-owned or operated energy supplies in conjunction with the federal set-aside program.

2.2(6) Investigation and recommendation to the general assembly of legislation on development and use of alternative sources of energy in Iowa and the reduction of dependence on nonrenewable resources.

2.2(7) Determination of when the health, safety or welfare of the people of the state is threatened by an actual or impending acute shortage of usable energy, notification to the governor of what emergency measures are necessary, and utilization of the emergency powers that the governor delegates to the council under section 93.8 of the Code.

2.2(8) Administration of major federal conservation programs in Iowa, including grant programs to schools, hospitals, local government and public care facilities.

2.2(9) Development of a program to annually within each congressional district give public recognition to innovative methods of energy conservation.

2.2(10) Development of a plan and incentive program for instituting solar energy demonstration projects within Iowa.

2.2(11) Assistance in developing solar energy systems within Iowa by providing technical and financial aid.

2.2(12) Investigation of the relationship between public energy suppliers and the usage of solar energy applications.

380—2.3(93) Description of organization.

2.3(1) General. The energy policy council is chaired by the director of energy policy who also manages the council staff. The vice chairperson is elected by the council annually at the first regular council meeting after July 1 and serves as presiding officer when the director of energy policy is absent from the council meeting. Only the seven public members of the council are eligible to be elected vice chairperson. Committees of the council may be formed by the director.

2.3(2) Energy policy council. The energy policy council consists of the director of energy policy who will also serve as presiding officer, four legislative members (two from the house of representatives appointed by the speaker and two from the senate appointed by the majority leader), seven public members appointed by the governor, and seven ex officio nonvoting members consisting of the following:

- a. The state geologist
- b. The chairperson of the Iowa state commerce commission
- c. The administrative officer of the state soil conservation commission
- d. The director of transportation
- e. The executive director of the Iowa department of environmental quality
- f. The director of the Iowa natural resources council
- g. The secretary of agriculture

The council is responsible for establishing programs and procedures for carrying out the functions, duties, and responsibilities under chapter 93 of the Code and for submitting reports and proposed legislation to the governor and general assembly.

2.3(3) Director of energy policy. The director of energy policy is appointed by the governor to serve as director of the council staff and presiding officer of the council. In these positions the director performs duties assigned by the governor, as well as those duties delegated by the council.

2.3(4) Organizational divisions within the council office.

a. Office of the director. The office of the director conducts the overall management of the council staff as well as public information, personnel management, financial management, purchasing and contract administration. The office of the director is managed by the deputy in the absence of the director.

b. Energy conservation. The energy conservation program is managed by a supervisor who has overall responsibility for technical management of the state energy conservation plan. This program utilizes support staff to carry out the state energy conservation plan and the supervisor of this program acts as project officer on energy conservation related contracts with the council. Energy conservation data collection, analysis and recommendations for conservation plan changes are the responsibility of this program.

c. Energy resources. The energy resources program is managed by a supervisor who has overall responsibility for technical management of the petroleum set-aside, emergency response plan development and implementation (93.8), projects supported by the energy research and development fund (93.14), other energy related projects and the operation of the Iowa office of the mid-American solar energy complex.

This program utilizes support staff to carry out these duties and the supervisor of this program acts as project officer on energy resource related contracts with the council. Energy resource data collection, analysis and recommendations for change are the responsibility of this program.

380—2.4(93) Location and business hours of the council office.

2.4(1) The office location of all organizational units is the sixth floor, Lucas State Office

Building, Capitol Complex, Des Moines, Iowa 50319.

2.4(2) The telephone number of all organizational units is 515/281-4420.

2.4(3) The normal business hours of all organizational units are 8:00 a.m. to 4:30 p.m., Monday through Friday, except holidays.

380—2.5(93) General course and methods of operation.

2.5(1) *Council meetings.* Council meetings will generally be held on the third Tuesday of each month; however, establishment and public notice of meeting dates and locations are the responsibility of the director, unless two-thirds of the members of the council eligible to vote request a meeting.

a. *Agenda.* The agenda is prepared by the director with the advice of the council members in advance of the council meeting and will generally be mailed to council members one week in advance of the meeting date. A copy of the agenda will be mailed to those members of the public who request it and it will be prominently posted at the council office. Members of the public wishing to be scheduled on the council's agenda should notify the director fifteen days in advance of the meeting and provide written materials explaining their reasons for wishing to address the council. Final decisions on the content and length of agenda items shall be the director's.

b. *General conduct of meetings.* The director, or vice chairperson in the absence of the director, presides at all council meetings. Only individuals recognized by the presiding officer may address the council and in general Robert's rules of order will govern the meeting unless otherwise stated in this chapter or by special action of the council.

c. *Voting.* The council consists of nineteen members, including the director. The seven ex officio members never vote. Eleven members, the seven public plus the four legislative members, vote on policy issues and only the seven public members vote on nonpolicy issues. In either case the director votes only in case of a tie. Should there be uncertainty on whether a policy or nonpolicy issue is before the council, a vote of public members of the council shall resolve the issue. Two-thirds of the sitting members eligible to vote on an issue shall constitute a quorum. A majority of the council members present and eligible to vote is sufficient to carry an action.

d. *Public participation.* All meetings are open to the public in accordance with the open meeting law, except that portions of a meeting may be closed in accordance with the open meeting law. Those members of the public wishing to speak on any agenda topic should complete a card furnished at the entrance to the meeting room and present that card to the council's secretary. Within the time previously allotted to each item, the director shall request public comment. Such comment shall be limited to three minutes per presentation and shall be terminated if the time period allowed on the agenda has been consumed unless the council provides for extensions of time. In addition, a thirty minute public forum will be scheduled on each agenda of regular monthly meetings to allow the public an opportunity to address the council on any energy related issue. Time for individual presentations during the public forum may be allocated by the director to give all those wishing to speak the opportunity to do so.

In all discussions before the council, members of the public shall address any questions for the council to the director. Individual questioning of council members will not be allowed without the explicit consent of the director and the council member in question.

2.5(2) *Fiscal management.* Overall management of funds provided to the council resides with the director; however, funds may be obligated by the director only within the budget or other restrictions previously imposed by the council.

a. *Application and acceptance of grants.* The director may apply for financial grants with the consent of the council and may accept grants with programs and budgets previously approved by the council.

b. *Budget.* The director shall have the authority to obligate funds budgeted by the council. Within each program, the director may not incur obligations greater than those authorized for the program by the council. The director shall periodically review the budget and recommend modifications as necessary for council approval.

c. Contract execution and administration.

(1) The director is responsible for the execution and administration of contracts in accordance with the rules and directives of the council. The director may without council approval execute contracts under \$5,000 and modify such contracts so long as the contract amount remains below \$5,000, such contracts or contract modifications are consistent with an approved budget, and the yearly cumulative total awarded to any person does not exceed \$5,000. For contracts of \$5,000 or less the director shall consider sole source contracts; shall determine whether it would be efficient to solicit proposals from more than one party, and shall then act in the best interests of the state.

(2) The director shall submit proposed contracts in excess of \$5,000 to the council for approval. All contracts in excess of \$5,000 brought before the council shall have accompanying documentation to show that requests for proposals were solicited from more than one party and that the director has made a reasonable attempt to induce competition prior to making recommendations to the council. The preceding sentence shall not apply to contracts with other state agencies or the state universities. The council shall attempt to distribute contracts among the three state universities based on their respective specialties, and when determined necessary by the director, contract award recommendations will be based on proposal competition among the three state universities.

(3) If any statute, regulation, council directive, or agreement requires procedures different than provided in this subrule, those procedures will apply in addition to those enumerated above.

380—2.6(93) Public availability of information.

2.6(1) Request for information. Requests for information may be made to Energy Policy Council, Capitol Complex, Des Moines, Iowa 50319. There is no prescribed form for requests for information. Requests should be sufficiently specific to permit easy identification of information requested. Simple requests may be made orally, in person, or by telephone. Detailed requests should be in writing.

2.6(2) Public inspection. Except as provided in subrule 2.6(3) all files, records, documents and other materials within the council's possession are available for public inspection. Any interested person or agency may examine files, records, documents, and other materials and may make memoranda or abstracts therefrom, all free of charge, during the normal business hours of the council at its headquarters. For use of office space to examine documents, appointments made in advance would be advised. Photocopies of any files, records, documents and other materials may be made at the rate of ten cents per page.

2.6(3) Confidentiality.

a. Notwithstanding the provisions of chapter 68A, Code of Iowa, information and reports obtained under subsection 93.7(3) shall be confidential, except when used for statistical purposes without identifying a specific supplier and when release of information will not give an advantage to competitors and serves as a public purpose.

b. Federal programs. When co-operating with the federal government in implementing a federal program the confidentiality requirements of the federal program as well as those of Iowa shall apply.

380—2.7(93) Submission of materials.

2.7(1) General. Members of the public may submit materials for consideration to either the council or the staff. These submissions should be accompanied by a cover letter which states clearly and concisely the use for which the materials are intended. The person submitting materials should supply one copy for each person on the staff or council that is to receive the materials. Although the council will attempt to return unsolicited material if requested, it cannot guarantee such return.

2.7(2) Exceptions. When material is submitted pursuant to another provision of these rules, such material should be submitted in accordance with any applicable instruction contained in such rule.

CHAPTER 3* STATE PETROLEUM SET-ASIDE

SUBPART A—SET-ASIDE SYSTEM

380—3.1(93) General. The federal petroleum set-aside program was established to offer states an opportunity to lessen emergency and hardship due to shortages or imbalances in the distribution of propane, middle distillate, motor gasoline and residual fuel oil (except as used by utilities or as bunker fuel for maritime shipping). Although the purpose of the federal petroleum set-aside is to alleviate emergency and hardship of petroleum consumers and end-users, the principal mechanism for doing so is by releasing petroleum products to wholesalers who in turn release this petroleum product through normal distribution lines to those consumers or end-users in need. The policies and procedures set forth herein are derived from United States Department of Energy regulations contained in 10 CFR Part 205, Subpart Q, 10 CFR 211.17, 10 CFR 205.3-205.7 and 10 CFR 205.9-10 which govern the state set-aside program. These rules are adopted pursuant to the federal regulations for the council to utilize the federally prescribed set-aside percentage for each class of petroleum product. The percentage to be set aside, which is determined by the United States Department of Energy and published in the Federal Register, and the total petroleum product within each class estimated to enter the state each month will determine the total volume of the state set-aside.

380—3.2(93) Scope. The rules in this chapter apply only to release and assignment of the state set-aside and do not govern council recommendations for allocation of new users.

380—3.3(93) Authorizing document. The director shall issue to an applicant granted an assignment a document authorizing such assignment. A copy of the authorizing document (or order) shall also be provided to the designated state representative of the prime supplier assigned to the applicant. An authorizing document issued by the director pursuant to this rule is effective upon issuance and represents a call on the prime supplier's set-aside volumes for the month of issuance, irrespective of the fact that delivery of the product subject to the authorizing document cannot be made until the following month. An authorizing document not presented to either the prime supplier or a designated local distributor of the prime supplier within ten days of issuance shall expire after that time.

380—3.4(93) Supplier's responsibilities. Suppliers shall provide the assigned amount of an allocated product to an applicant when presented with an authorizing document. The authorizing document shall entitle the applicant to receive product from any convenient local distributor of the prime supplier from which the state set-aside assignment has been made. Wholesale purchaser-resellers of prime suppliers shall, as nonprime suppliers, honor such authorizing documents upon presentation, and shall not delay deliveries required by the authorizing document while confirming such deliveries with the prime supplier. Any nonprime supplier which provides an allocated product pursuant to an authorizing document shall in turn receive from its supplier an equivalent volume of the allocated product which shall not be considered part of its allocation entitlement otherwise authorized.

380—3.5(93) Prime suppliers. All prime suppliers shall supply products from their state set-aside volume each month, as directed by the state office, not to exceed the total state set-aside volume for each product for that month. That portion of a prime supplier's state set-aside volume for a particular month which is not allocated by the state office during that month or which is not subject to an authorizing document issued no later than the last day of that month shall become a part of the prime supplier's total supply for the subsequent month and shall be distributed according to the federal allocation procedures.

380—3.6(93) Release of state set-aside.

3.6(1) At any time during the month, the state office may order the release of part or all of a

*Emergency, pursuant to §17A.5(2)"b" of the Code.

prime supplier's set-aside volume through the prime supplier's normal distribution system in the state.

3.6(2) From time to time, the state office may designate certain geographical areas within the state as suffering from an intrastate supply imbalance. At any time during the month, the State office may order some or all of the prime suppliers with purchasers within such geographical areas to release part or all of their set-aside volume through their normal distribution systems to increase the allocations of all of the supplier's purchasers located within such areas.

3.6(3) Orders issued pursuant to this paragraph shall be in writing and effective immediately upon presentation to the prime supplier's designated state representative. Such orders shall represent a call on the prime supplier's set-aside volumes for the month of issuance irrespective of the fact that delivery cannot be made until the following month.

SUBPART B—APPLICATIONS FOR ASSIGNMENTS FROM STATE SET-ASIDE SYSTEM

380—3.7(93) Scope and purpose. The state set-aside system is established for propane, middle distillate, motor gasoline and residual fuel oil (except as used by utilities or as bunker fuel for maritime shipping). The state set-aside shall be utilized by the state office to meet hardship and emergency requirements of all wholesale purchaser-consumers and end-users within the state from the state set-aside volumes, including wholesale purchaser-consumers and end-users which are part of any governmental organization. To facilitate relief of the hardship and emergency requirements of wholesale purchaser-consumers and end-users, the state office may direct that a wholesale purchaser-reseller can supply the wholesale purchaser-consumers and end-users experiencing the hardship or emergency.

380—3.8(92) Assignment from state set-aside. If the state office approved a hardship or emergency application, it shall assign a prime supplier and amount from the state set-aside to the applicant. To determine an appropriate prime supplier, the state office may co-ordinate with the state representatives of the prime suppliers.

380—3.9(93) Who may apply. A wholesale purchaser-consumer or an end-user, seeking an assignment from the state set-aside system as provided by to meet a hardship or emergency requirement, and a wholesale purchaser-reseller, seeking an assignment to enable him to supply such wholesale purchaser-consumers and end-users, may apply for an assignment under the state set-aside system.

380—3.10(93) Where to file. All applications shall be filed with, or verbal requests made to, the office of the director if the product will be physically delivered and the applicant is located in the state of Iowa.

380—3.11(93) What to file.

3.11(1) Application for assignment from the state set-aside system may be by the appropriate form, by other written communication or by verbal, including telephonic, request.

3.11(2) Every application, whether written or verbal, shall provide sufficient information to enable the director to determine that the proposed allocation satisfies the objectives of the Emergency Petroleum Allocation Act of 1973 by meeting the criteria for assignment contained in rule 3.13 and shall include all of the information required by subrule 3.11(3) of this rule.

3.11(3) Wherever possible, applicants should submit a completed copy of the form entitled "Application for Set-Aside Fuel," a copy of which is appended to these rules. Copies of this form may be obtained from the office of the director. Any request, whether by form or otherwise, must include the following information:

- a. Applicant's name and address.
- b. Telephone number.
- c. Nature of the application.
- d. Product required.

- e. Applicant's past and current supply situation.
 - f. Supplier(s)' name and address.
 - g. Explanation of product end uses.
 - h. The identification of any previous assignment order from the state set-aside system that was issued to the applicant or to any person that controls or is controlled by the applicant; and
 - i. A statement that the applicant's base period supplier or new supplier is unable to supply his requirements or, if the applicant does not have a supplier, a statement that he has contacted two suppliers that could supply the allocated product and the identification of those suppliers.
 - j. If the applicant is a wholesale purchaser-reseller, the application shall contain a description of the wholesale purchaser, consumers and end-users that will be supplied and their hardship and emergency requirements.
 - k. Justification for hardship.
 - l. Applicant's dated, certifying signature.
 - m. With respect to verbal applications, the director shall determine first whether the claimed hardship is of such an emergency character that prior written application is impracticable. If so, the director shall obtain all required information of the applicant and may act thereon or may seek such verification as is possible and appropriate in the judgment of the director, given the circumstances of the applicant. Any verbal request must be immediately verified by the applicant in writing, which writing shall contain all of the information required by these rules. Failure to submit such written verification shall result in denial of the application, rescission of an order of assignment, or such other relief as the director deems appropriate.
- If the director determines that the claimed hardship is not of such an emergency character that action upon verbal request is appropriate, the applicant shall submit a written application as provided in these rules.

380—3.12(93) Processing applications.

3.12(1) All applications shall be processed by the director of energy policy in accordance with the applicable federal regulations and these rules.

3.12(2) The director may initiate an investigation of any statement in an application, whether written or verbal, and utilize in its evaluation any relevant facts obtained by such investigation. The director may solicit and accept submissions from third persons relevant to any application provided that the applicant is afforded an opportunity to respond to all third-person submissions. In evaluating an application, the director may consider any other source of information. The director on its own initiative may convene a conference, if in its discretion, it considers that a conference will advance its evaluation of the application.

3.12(3) If the director determines that there is insufficient information upon which to base a decision and, if upon request, the necessary additional information is not submitted, the director may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the director may dismiss the application with prejudice.

3.12(4) The director may notify any person that it determines will be aggrieved by the assignment that comments regarding the application will be accepted.

380—3.13(93) Criteria for assignment from state set-aside.

3.13(1) *Hardship or emergency requirements.* There shall be assignments only to wholesale purchaser-consumers and end-users located within the state who demonstrate hardship or emergency requirements (or to wholesale purchaser-resellers to enable them to supply such persons) with respect to propane, middle distillate, motor gasoline and residual fuel oil (except that used by utilities or as bunker fuel for maritime shipping).

A hardship is a situation involving or potentially involving substantial discomfort or danger or economic dislocation caused by a shortage of an allocated petroleum product or both. An emergency is a hardship involving the absence of a petroleum product supply for a wholesale purchaser-consumer or an end-user which requires immediate attention.

3.13(2) *Assignment priorities.* To the extent that the state can determine the order of

priority, assignments from the state set-aside to applicant demonstrating emergency or hardship requirements shall generally conform to the following rank order of assignment priorities.

a. Protection of public health (including the production of pharmaceuticals), safety and welfare (including maintenance of residential heating, such as individual homes, apartments and similar occupied dwelling units), and the national defense;

b. Maintenance of essential public services (including facilities and services provided by municipally, cooperatively, or investor owned utilities, or by any state or local government or authority, and including transportation facilities and services which serve the public at large);

c. Maintenance of agricultural operations, including farming, ranching, dairy, and fishing activities, and services directly related thereto;

d. Preservation of an economically sound and competitive petroleum industry; including the priority needs to restore and foster competition in the producing, refining, distribution, marketing, and petrochemical sectors of such industry, and to preserve the competitive viability of independent refiners, small refiners, nonbranded independent marketers, and branded independent marketers;

e. Allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of, exploration for, and production or extraction of

1. Fuels, and

2. Minerals essential to the requirements of the United States, and for required transportation related thereto;

f. Economic efficiency; and

g. Minimization of economic distortion, inflexibility, and unnecessary interference with market mechanisms.

3.13(3) *Assignment of set-aside volume.* A prime supplier's set-aside volume shall, to the extent possible, be uniformly assigned during the month so as to enable the director to meet the emergency and hardship priority needs of the state throughout the month.

3.13(4) *Report of projected distribution.* The council shall review, at its regularly scheduled monthly meetings, the projected degree to which the emergency and hardship requirements of end-users and wholesale purchasers-consumers in each priority category can be met with the volume of state set-aside for that month. The council has the authority to assess the gravity of need of end-users in the various categories and may provide for differing assignment among priority categories on a monthly basis as deemed to be in the public interest. The director shall take appropriate steps to make monthly allocation projections and priorities available to the public. The council shall also review the extent to which such emergency and hardship requirements were met in the previous month.

380—3.14(93) Decision and order.

3.14(1) *Order.* Upon consideration of the application whether written or verbal, and other relevant information received or obtained during the proceeding, the director shall issue an order denying or granting the application.

An order granting an application for assignment from the state set-aside shall be the "authorizing document" for purposes of rule 2.3(93) of energy policy council rules.

3.14(2) *Contents.* The order shall include a brief written statement summarizing the factual and legal basis upon which the order was issued. The order shall provide that any person aggrieved thereby may file an appeal with the council in accordance with these rules.

The order shall state that it is effective upon issuance and shall expire within ten days of its issuance unless the applicant presents his copy of the order to the prime supplier or a designated local representative of such prime supplier within those ten days.

3.14(3) *Service by director.* The director shall serve a copy of the order upon the applicant, the designated state representative of the prime supplier assigned to the applicant and any other person readily identifiable as one who will be aggrieved by said order.

3.14(4) *Denial of application.* The denial of an application shall be without prejudice to the right of the applicant to again request petroleum from the state set-aside.

380—3.15(93) Misuse of state set-aside. If the director has reason to believe that a recipient of state set-aside used the set-aside funds for purposes other than those end-uses designated on the authorization order and the application or if the director has reason to believe that the recipient has misrepresented any information on the application or authorization order, that recipient's eligibility for state set-aside may be rescinded. The director shall provide the recipient an opportunity to present evidence or arguments to the director. Should the director determine that misuse or misrepresentation has occurred and that the recipient should be ineligible for a reasonable period of time, director shall give written, timely notice by personal service as in civil actions or by restricted certified mail to the recipient of the facts or conduct and any provision of law, including these rules, which warrant the intended action. Such notice shall advise the recipient that he or she will be given an opportunity to show, in an evidentiary hearing conducted by the appeal board as set forth in chapter 3 of these rules, that the facts or conduct relied upon by the director are not in fact true. The recipient may also alternatively request an oral argument or submission of briefs to the appeal board to dispute issues of law or policy. Any request for evidentiary hearing or argument shall be filed with the director within fifteen days of service of the director's decision. Unless the appeal board finds that public health, safety or welfare imperatively requires emergency action and makes a finding to that effect, the recipient shall not be denied eligibility during the pendency of the decision on the basis of misuse or misrepresentation. Such proceedings shall be promptly instituted and determined.

380—3.16(93) Time for action on application.

3.16(1) If the director fails to take action on an application, whether verbal or written, within ten days of filing (if the application is verbal, it shall be considered to be filed on the date that it is verbally communicated to the director), the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart.

3.16(2) Notwithstanding subrule 3.16(1) of this rule, the state office may temporarily suspend the running of the ten-day period if it finds that additional information is necessary or that the application was improperly filed. The temporary suspension shall remain in effect until the director serves upon the person notice that the additional information has been received and accepted or that the application has been properly filed as appropriate. Unless otherwise provided in writing by the director, the ten-day period shall resume running on the first day that is not a Saturday, Sunday or state legal holiday and that follows the day on which the state office serves upon the person the notice described in this paragraph.

SUBPART C—APPEALS

380—3.17(93) Appeals. These rules establish the procedures for the filing of an administrative appeal of assignment and set-aside orders issued by the director of energy policy or his designee. In all cases, efforts shall be made by the director and any aggrieved parties to informally confer and resolve issues prior to scheduling an appeal. These rules shall apply to all appeals of assignment and set-aside orders unless federal regulations provide for federal administrative appeals of such orders.

380—3.18(93) Review of appeal. Appeals taken from the decision of the director shall be presented, heard and decided by a three-member state set-aside appeal board. The council shall select public members of the energy policy council to serve on the set-aside appeal board.

380—3.19(93) Filing of appeal. Any person aggrieved by an order issued by the director may file an appeal with the board in accordance with these rules. The appeal shall be filed within fifteen days of service after order from which the appeal is taken. There has not been an exhaustion of administrative remedies until an appeal has been filed and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

380—3.20(93) Time of filing. The notice of appeal when filed in person shall be considered filed on the date delivered to the director or his delegate or designee. A notice of appeal when filed by mail shall be considered filed on the date postmarked.

380—3.21(93) Form of notice of appeal. All notices of appeal shall be in writing and signed by the appellant; shall designate clearly on its face that it is an appeal; shall contain a concise statement of the grounds for appeal and the requested relief; shall be accompanied by any documents or briefs, if any, which pertain to the appeal; shall be accompanied by the affidavit of mailing required in rule 3.22(93); and shall state: "Any person adversely affected by the request for relief must file a response within ten days of the date this notice is mailed to ensure that their views will be considered by the set-aside board. See rule 3.22(93)." The appellant shall state whether he requests that there be an informal settlement conference with the director or an evidentiary hearing regarding the appeal.

380—3.22(93) Notice to affected third parties. The appellant shall file with the notice of appeal an affidavit certifying that the notice of appeal has been mailed to all persons readily identifiable as ones who would be aggrieved by the requested relief on appeal and shall include a list of such persons.

Upon receipt of the notice, the director shall notify any other third party readily identifiable as one who would be aggrieved.

380—3.23(93) Responses to notice of appeal. The director or any other person who may be adversely affected by the notice of appeal may file a response no later than seven days of the mailing of the notice served on such person and may raise any issue of law or fact which is relevant to the determination of the appeal.

380—3.24(93) Requests for evidentiary hearing. If the appellant or any other person requests an evidentiary hearing, the notice of appeal or response thereto shall state the issues of fact for the set-aside board to determine.

380—3.25(93) Resolution of appeal where no material issue of fact. If the board determines that the appeal does not raise any issue of material fact, the board may deny or grant the appeal upon the basis of the written notice of appeal and the requested documents. However, the board may in its discretion, on request or on its own motion, hold an evidentiary hearing where there is no material issue of fact, if it determines that there is a substantial question of law or policy.

After consideration of the appeal all relevant evidence received or obtained during the proceeding, the board shall render its decision and enter an appropriate order. The decision shall set forth any relevant factual findings and conclusions of law which are the basis for the board's decision.

The director shall send by registered mail a copy of the order to the appellant. In addition, any other person who participated in the proceeding and any other person readily identifiable as one who is affected by such order shall be notified by the director.

380—3.26(93) Scheduling of evidentiary hearing. If the board determines that the appeal raises material issue of fact, the board shall grant a request for an evidentiary hearing by the appellant or any other party.

Upon the granting of a request for an evidentiary hearing, the director shall schedule such hearing as soon as possible taking into account the convenience of the parties and the circumstances surrounding the appeal.

380—3.27(93) Notice of evidentiary hearing. Upon the scheduling of an evidentiary hearing on an appeal, the director shall mail a notice of hearing to the appellant and all third parties identifiable as being affected by resolution of the appeal at least ten days prior to the date of

hearing, unless the parties agree in writing to waive this requirement.

The notice shall include:

1. A statement of the time, place and nature of the hearing;
2. A statement that the hearing is held pursuant to these rules and any other relevant legal authority;
3. A reference to the particular sections of any statutes and rules involved;
4. A short and plain statement of the matters to be considered at the hearing.

380—3.28(93) Conduct of evidentiary hearing. All evidentiary hearings shall be conducted in accordance with the provisions of the Iowa Administrative Act and these rules or in any other manner agreed upon by the parties in writing.

380—3.29(93) Continuance of oral hearing. For good cause shown, continuances and extensions of time for hearing may be granted by the board's motion or upon request of the party or parties to the appeal.

380—3.30(93) Failure to appear at evidentiary hearing and petition for reopening hearing. If a party fails to appear in a proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, proceed with the hearing and make a decision in the absence of the party.

Any party who fails to appear at a hearing may within five days thereafter petition for reopening of the hearing. Such petition shall be granted if it appears to the board that the petitioner has shown good cause for failure to attend and for failure to request a continuance.

380—3.31(93) Evidentiary hearing representation. An individual may appear at an evidentiary hearing in his own behalf or he may be represented by a designee or representative or by an attorney.

The board may deny temporarily or permanently, the privilege of participating in proceedings, including oral presentation, to any individual who is found by the board—

1. To have made false or misleading statements, either verbally or in writing;
2. To have filed false or materially altered documents, affidavits or other writings;
3. To lack the specific authority to represent the person seeking a board action; or
4. To have engaged in or to be engaged in contumacious conduct that substantially disrupts a proceeding.

380—3.32(93) Decision of the board. After consideration of the appeal and all relevant evidence received or obtained during the proceeding, the board shall render its decision and enter an appropriate order.

The decision shall include a written statement setting forth any relevant factual findings and conclusions of law which are the basis for the board's decision.

The director shall send by registered mail a copy of the order to the appellant. In addition, any other person who participated in the proceeding and any other person readily identifiable as one who is affected by such order shall be notified by the director.

380—3.33(93) Review by council. The decision of the board becomes the final decision of the council without further proceedings unless there is an appeal to or review on motion of the council within seven days from the entry of the board's order in accordance with the Iowa Administrative Act and these rules.

On appeal, the council may review and reverse the board's findings of fact if the council determines that such findings are clearly erroneous, of law, which were the basis for its decision.

380—3.34(93) Remedy for erroneous denial for assignment or set-aside request. If it is determined that an assignment or set-aside request by a party to the appeal in a particular month

was erroneously denied, the board or council, on appeal from or review of the board's decision, may order that the request be granted provided the appeal is resolved in time to allow allocation from the state set-aside volume during that month. If the appeal is not resolved in time to allow such allocation, special consideration shall be given to future requests by such party for an assignment or set-aside order. Since there is a need for expeditious action in order to effectuate the purpose of the state petroleum set-aside program, an appeal of an assignment or set-aside order shall not operate to stay such an order.

380—3.35(93) Inspection of appeal decisions. Copies of all appeal decisions of the board and council shall be kept on file for at least five years from the date of decision and open for inspection in the council office. Such decisions and determinations shall be open to public inspection during normal business hours of any working day.

SUBPART D—REQUESTS FOR CONFIDENTIAL TREATMENT

380—3.36(93) Requests for confidential treatment. If any person filing a document with the director for use in the operation of the state petroleum set-aside program claims that some or all the information contained in the document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (5 USC 552), is information referred to in 18 USC 1905, is exempted from disclosure by chapter 68A or subsection 93.7(3) of the Iowa Code or is otherwise exempt by law from public disclosure, and if such person requests the director not to disclose such information, such person shall file together with the document a second copy of the document from which has been deleted the information for which such person wishes to claim confidential treatment. The person shall conspicuously indicate on the face of the original document that it is confidential information and may file a statement specifying the justification of nondisclosure of the information for which confidential treatment is claimed. If the person states that the information comes within the exception of 5 USC 552(b) (4) for trade secrets and commercial or financial information, such person shall include a statement specifying why such information is privileged or confidential. If the person filing a document does not submit a second copy of the document with the confidential information deleted, the director may assume that there is no objection to public disclosure of the document in its entirety.

The director retains the right to make his own determination with regard to any claim of confidentiality. Notice of the decision by the director to deny such claim, in whole or in part, and an opportunity to respond shall be given to a person claiming confidentiality of information no less than five days prior to its public disclosure.

In a case where the director determines that disclosure of such information is warranted and where that the determination of confidentiality is not based on facts unique to any individual, notice to all affected by the disclosure is impracticable, but that claims of confidentiality are likely to be made, the director will release his determination, provide as much notice as practicable through press releases and notices to appropriate trade association and allow a five-day period for any person making such a claim to apply to district court for an injunction under chapter 68A.

[Filed emergency 9/14/79—published 10/3/79, effective 9/14/79]

CHAPTER 4 CLASS "A" ENERGY AUDITORS

380—4.1(93) General. The class "A" auditor program is designed to furnish a pool of trained and tested persons to audit the energy consumption of various buildings in Iowa, analyze the results of these audits, and evaluate this data in order to advise the building owner or operator of procedures that will lower the energy consumption of the building. Part of the funding for this program will be awarded by the United States Department of Energy pursuant to the energy conservation and production Act of 1975 (P.L. 94-385), and regulations

published in 450.1-.23 of Title 10 of the federal regulations. This chapter applies only to audits conducted pursuant to the above-cited federal law.

Certain aspects of the training program are directed by the class "A" energy auditor advisory committee, consisting of eleven members appointed by the council. The advisory committee is responsible for conducting the auditor training sessions, administering the examinations, and certifying class "A" energy auditors. The energy policy council may always, on its own motion or at the request of any person, review and modify or override any actions of the committee.

4.1(1) Applicant qualifications. In order to qualify for the training sessions for class "A" energy auditors,

a. The applicant must be a registered engineer, as defined in chapter 114, Code of Iowa; a registered architect, as defined in chapter 118, Code of Iowa; or a person who has completed educational requirements for a registered engineer or architect, but has not yet become registered.

b. The applicant must carry professional liability insurance, either personal or under a company policy.

c. The applicant must agree that when federal funds are used to pay all or part of the audit, the applicant will comply with the conflict of interest provisions of the United States Department of Energy, 450-22(3), at 10 CFR 534.

d. Notwithstanding 4.1(1)"a" and "b", an applicant may attend the training sessions, with the approval of the director; however, that applicant shall not be eligible for certification described in 4.1(3).

4.1(2) Examination of qualified applicants.

a. Training sessions. Qualified applicants must attend a training session and pass a certification examination. This program is conducted by the advisory committee, under the authority of the council.

b. Instructors. Instructors are selected by the advisory committee, on the basis of demonstrated expertise in the fields of engineering, architecture, or economics.

c. Materials. The training workbook is "Manual of Procedures for Authorized Class A Energy Auditors in Iowa," prepared by the engineering research institute of Iowa State University with the support of the council.

d. Appeals. Appeal to the council is available to those persons who fail the certification examination. Such appeals shall be requested in writing to the director within thirty days of receipt of the examination results.

e. Fees. The cost of materials and staff per applicant will be the basis on which a fee for the course will be established.

4.1(3) Certification.

a. All qualified applicants who pass the certification examination and who are Iowa registered engineers or architects will be certified as class "A" energy auditors.

b. All persons who pass the certification examination but are not yet registered architects or engineers in the state of Iowa may be certified upon meeting the requirements of their professional registration. Requests for certification shall be made in writing to the advisory committee within one year of the applicant's passing the certification examination.

c. Reciprocity will be given persons who are approved as class "A" energy auditors in those states whose training and certification programs have been approved by the energy policy council based upon recommendations of the advisory committee.

d. All persons who meet the professional registration qualifications and [have] passed a similar test previously conducted under the authority of the council will be automatically certified upon promulgation of these rules.

e. Appeal to the council is available for those persons who apply for and are denied certification. Requests for appeal shall be to the director within thirty days of notification of denial.

4.1(4) Fee schedule.

a. Any audits which are partially or wholly financed by the United States Department of

Energy pursuant to 10 CFR 450.14 must follow the federal fee limits. These fee limits require that the cost of an energy audit be less than:

(1) Ten percent of the building's or industrial plant's total energy costs for the preceding twelve months, when such energy costs were less than \$40,000.

(2) Four thousand dollars (\$4,000) or five percent of the building's or industrial plant's total energy costs for the preceding twelve months, whichever is greater, when such energy costs were equal to or greater than \$40,000 but less than \$1 million.

(3) Fifty thousand dollars (\$50,000) or 2.5 percent of the building's or industrial plant's total energy costs for the preceding twelve months, whichever is greater, when such energy costs were equal to or greater than \$1 million.

Exemptions from these fee limits may be obtained by application to the director, who may grant an exemption if he finds that the buildings or industrial plants exhibit unique or unusually complex characteristics relating to energy use.

b. Audits performed without federal funds need not follow the federal fee limits.

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CHAPTER 5

ENERGY MEASURES AND ENERGY AUDITS GRANT PROGRAMS FOR SCHOOLS AND HOSPITALS AND BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT AND PUBLIC CARE INSTITUTIONS

380—5.1(93) General. The energy audit grant program was established to reduce consumption, and associated costs, of conventional energy resources in schools and hospitals, and buildings owned by units of local government and public care institutions. This objective is to be accomplished through several means, including:

1. Identifying improved operating and maintenance programs.

2. Identifying energy conservation measures, including solar energy or renewable resource measures.

3. Implementation, in the case of schools and hospitals, of selected energy conservation measures, including solar energy or renewable resource measures.

5.1(1) Purpose and scope. This chapter establishes requirements for the conduct of preliminary energy audits and energy audits, the qualifications of persons conducting them and allowable costs of energy audits. Preliminary energy audits and energy audits are required in the program of financial assistance for schools and hospitals and the program of financial assistance for units of local government and public care institutions, as provided under subpart B, part 455, chapter II of Title 10, Code of Federal Regulations.

5.1(2) Definitions. For purposes of these rules:

a. *"Building"* means any structure, the construction of which was completed on or before April 20, 1977, which includes a heating or cooling system, or both.

b. *"Complex"* means a closely situated group of buildings on a contiguous site or a closely situated group of buildings served by a central utility plant, such as a college campus or a multibuilding hospital.

c. *"Energy audit"* means a survey of a building or complex that is conducted in accordance with the requirements of this subpart which:

(1) Identifies the type, size, energy use level and the major energy using systems.

(2) Determines appropriate energy conservation maintenance and operating procedures.

(3) Indicates the need, if any, for the acquisition and installation of energy conservation measures, including solar energy and other renewable resource measures.

d. *"Energy conservation measure"* means an installation in a building which is primarily intended to reduce energy consumption or allow the use of an alternative energy source.

e. *"Hospital"* means a public or nonprofit institution which is a general hospital, tuberculosis hospital, or any other type of hospital, other than a hospital furnishing primarily domiciliary care; and is duly authorized to provide hospital services under the laws of the state of Iowa.

f. *"Hospital facilities"* means buildings housing a hospital and related facilities, including laboratories, laundries, outpatient departments, nurses' home and training facilities and central service facilities operated in connection with a hospital, and also includes buildings housing education or training facilities for health professions personnel operated as an integral part of the hospital.

g. *"In-kind contributions"* means the value of noncash contributions provided by the grantee and non-federal parties. Only when authorized by federal legislation may property purchased with federal funds be considered as the grantee's in-kind contributions. In-kind contributions may be in the form of charges for real property and nonexpendable personal property and the value of goods and services directly benefiting and specifically identifiable to the project or program.

h. *"Preliminary energy audit"* means a determination of the energy consumption characteristics of a building, including the size, type, rate of energy consumption, and major energy-using systems of such building.

i. *"Public care institution"* means a public or nonprofit institution which owns:

(1) A facility for long-term care, rehabilitation facility, or public health center, as described in Section 1633 of the Public Health Service Act (42 USC 300s-3: 88 Stat. 2279).

(2) A residential child care center, which is an institution, other than a foster home, operated by a public or nonprofit institution and is primarily intended to provide full-time residential care with an average length of stay of at least thirty days for at least ten minor persons who are in the care of such institution as a result of a finding of abandonment or neglect or of being persons in need of treatment or supervision.

j. *"School"* means a public or nonprofit institution which:

(1) Provides, and is legally authorized to provide, elementary education or secondary education or both on a day or residential basis.

(2)(a) Provides, and is legally authorized to provide, a program of education beyond secondary education, on a day or residential basis;

(b) Admit as students only persons having a certificate of graduation from a school providing secondary education or the recognized equivalent of such certificate;

(c) Is accredited by a nationally recognized accrediting agency or association; and

(d) Provides an educational program for which it awards a bachelor's degree or higher degree or provides not less than a two-year program which is acceptable for full credit toward such a degree at any institution which meets the preceding requirements and which provides such a program.

(3) Provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions cited in subdivisions (a), (b) and (c) of subparagraph (2) above; or

(4) Is a local education agency.

k. *"Unit of local government"* means the government of a county, municipality, or township, which is a unit of general purpose government below the state, determined on the basis of the same principles as are used by the bureau of the census for general statistical purposes; the recognized governing body of an Indian tribe which governing body performs substantial governmental functions; libraries owned by any of the foregoing; and public libraries which serve all residents of a political subdivision below the state level, such as a community, district or region, free of charge and which derive at least forty percent of their operating funds from tax revenues of a taxing authority below the state level.

380—5.2(93) Identification of eligible institutions. In identifying eligible institutions and distributing the preliminary energy audits the council will seek assistance from statewide affected eligible institutions. The school organizations include the state department of public instruction, the Iowa association of school administrators, the Iowa association of school boards, the Iowa Catholic conference, the Iowa association of nonpublic school administrators, the Iowa association of private colleges and universities, and the state board of regents. Hospitals are represented by the following organizations: The Iowa department of

health, the Iowa health care association, the Iowa association of homes for the aging, the Iowa hospital association and the state department of social services. Local governments are represented by the league of Iowa municipalities and the Iowa state association of counties.

380—5.3(93) Preliminary energy audits. Preliminary energy audits will be conducted by mail-in questionnaires to all eligible institutions in Iowa.

5.3(1) Building description. A preliminary energy audit shall provide a description of the building or complex audited and determine its energy-using characteristics, including:

- a. A description of the functional use made of the building.
- b. The size of the building, expressed in gross square feet.
- c. The age of the building.
- d. Approximate daily hours of operation, including periods of partial use, if applicable.
- e. An identification of major energy-using systems.
- f. Fuel use in physical units and cost data by type for a preceding twelve-month period, by month if practicable, using actual data or an estimate if actual figures are unavailable.
- g. Total annual energy use expressed in Btu's per gross square foot.

5.3(2) Conservation activities. A preliminary energy audit shall provide a brief description of activities which have been undertaken to conserve energy in the building or complex being audited.

5.3(3) Renewable resources. A preliminary energy audit shall provide information regarding site, building, and heating and hot water systems related to solar energy or other renewable resource potential.

380—5.4(93) Energy audits. Energy audits will be performed on some institutions for which preliminary energy audits were returned, if the owner or operators agree to the cost-sharing requirements of 5.8(1), and a determination has been made that such a building is eligible, under 5.6(93) for further auditing.

5.4(1) Contents. An energy audit shall contain the information required for a preliminary energy audit, in accordance with 5.3(93), and shall also include a description of:

- a. Major changes in functional use or mode of operation planned in the next fifteen years;
- b. Terminal heating or cooling, or both, such as radiators, unit ventilators, fan coil units, or double duct reheat systems; or
- c. A description of general building conditions.

5.4(2) Conservation maintenance. An energy audit shall:

- a. Indicate that appropriate energy conservation maintenance and operating procedures have been implemented for the building; or
- b. Recommend appropriate energy conservation maintenance and operating procedures, on the basis of an on-site inspection and review of any scheduled preventive maintenance plan, together with a general estimate or range of energy and cost savings, if practicable.

5.4(3) Need. An energy audit shall indicate the need, if any, for the acquisition and installation of energy conservation measures and shall include an evaluation of the need and potential for retrofit.

5.4(4) Building conditions. An energy audit shall include an indication of whether building conditions or characteristics present an opportunity for use of solar heating and cooling systems or solar hot water systems.

5.4(5) Auditor-consultation. The council urges persons or organizations considering major changes based on the results from energy audits to consult a class "A" energy auditor prior to enacting such measures.

380—5.5(93) Energy auditors.

5.5(1) Eligibility for participation in the energy audit workshops.

- a. All state class "A" energy auditors may attend the energy auditor workshops.
- b. Any individual who has been designated by an eligible institution may attend the energy auditor workshops.

c. Any Iowa registered engineer, engineer in training, or registered architect may attend the workshops.

5.5(2) *Energy auditor workshops.*

a. The workshops will instruct persons how to audit the major energy consuming systems in the building, such as hot water, lighting, heating and/or air conditioning, and the building envelope. Participants will be shown how to examine these systems for possible changes in building operation and maintenance procedures that would result in reduced energy consumption.

b. The instructors for the workshops will be professional educators, with particular expertise in the areas of energy and building systems, and professional engineers and architects.

5.5(3) *Qualifications of energy auditors.*

a. All class "A" energy auditors are qualified as energy auditors for this program.

b. Persons who are certified by the designated course instructor as having attended all phases of the energy audit workshop will be qualified as energy auditors for the building type workshop they attended.

(1) Persons who attended the schools workshop are qualified to do energy audits for schools and local governments, and

(2) Persons who have attended the hospitals workshop are qualified to do energy audits for hospitals and public care facilities.

c. Reciprocity will be recognized for persons who have attended similar workshops in other states, if those workshops have been approved by the director.

d. Energy auditors must be able to comply with the conflict of interest requirement of the United States department of energy, found at CFR 450-22, which requires the energy auditor, in part, to disclose any interest greater than ten percent in a company that manufactures or installs devices that may be required as a result of the energy audit.

e. Energy auditors must be someone other than the person directly responsible for the day-to-day operations of the building.

380—5.6(93) *Criteria for selection of eligible buildings.*

5.6(1) *Allocation of funds.* Of the total funds allocated to the eligible school and hospital facilities for preliminary energy audits and energy audits, thirty percent will initially be allocated to school facilities and thirty percent to hospital facilities. These funds will be allocated to those schools and hospitals that returned the preliminary energy audits, agree to the cost sharing provision in 5.8(1), and achieve the highest number of points on the four factors listed in 5.6(2). Once this initial sixty percent of funding is allocated, the schools and hospitals that remain will all be placed in a single category, and they will be allocated the remaining forty percent of the funding on the basis of the same four criteria listed in 5.6(2).

All of the funds granted to the local government and public care institutions for preliminary energy audits and energy audits will be distributed to the eligible institutions prioritized according to the number of points attained on the four criteria listed in 5.6(2).

5.6(2) *Factors to be considered in allocating funds:*

a. A building energy management index shall be constructed for each building type for eligible institutions participating in the program. The building energy management index (BEMI) will compute the Btu's/ft²/man-hour occupancy (patient days in the case of hospitals)/year consumed by the buildings within a particular functional group. Energy excessive buildings within the group will thereby be identified. This technique will also estimate the annual energy savings possible by bringing the energy consumption of an energy excessive building to the norm (median) for the group. Based on the annual energy savings possible to achieve by bringing the excessive building in line with the median of other buildings in the group, the building will be given a certain number of points.

Buildings identified in the building energy management index which are the excessive category shall be given points according to the following percentile ranking:

80 or above	50 points
60-79	40 points
40-59	30 points
20-39	20 points
below 19	10 points
b. Type of fuel consumed (primary heating fuel)	
oil	15 points
LPG	12 points
natural gas	10 points
electricity	10 points
coal or other	5 points
c. Cost of fuel consumed: (dollars expended/unit energy)	
80	10 points
60-79	8 points
40-59	6 points
20-39	4 points
below 19	2 points
d. Projected useful life of the building:	
over 20	25 points
10-20	15 points
5-10	10 points

380—5.7(93) Audit reports.

5.7(1) Confidentiality. The results of a preliminary energy audit or an energy audit, conducted in accordance with the requirements of this subpart, shall be contained in an audit report. Unless a claim of confidentiality is made by an audited institution based upon a specific provision of the freedom of information Act, 5 USC 552, or chapter 68A, Code of Iowa, and both the claim and reason for confidentiality are submitted with the audit report or within ten days from the date the owner receives the report, an audit report shall be considered public information and will be made available for public review upon request.

5.7(2) Auditor's statement. An audit report for an energy audit shall include a statement signed by the auditor that:

- The auditor meets the applicable qualifications as set forth in 5.5.
- The auditor has indicated any financial interests in accordance with 5.5(1)“c”; and
- The audit was conducted in accordance with the requirements of 5.4.

380—5.8(93) Cost of energy audits.

5.8(1) Restrictions. Amounts made available from the federal department of energy under this chapter, together with any other amounts made available from other federal sources, may not be used to pay more than fifty percent of the costs of an energy audit. The institution being energy audited can calculate its fifty percent share of the audit costs based on cash and in-kind services directed toward the energy audits (see 5.1(2)“g” for a definition of in-kind services.

5.8(2) Cost of energy audits.

a. Except as provided in paragraph "b" of this subrule, the allowable cost of an energy audit under this program for the purpose of calculating the federal share thereof, shall not exceed the following:

Building Gross Square Feet	Allowable Cost for Calculating Federal Share
Up to 30,000	\$400.00
30,000 to 100,000	500.00
100,000 and above	600.00
Complex ¹	

¹The sum of individual building allowances for the first 150,000 gross square feet and 80 percent of individual building allowances above 150,000 gross square feet but not to exceed \$10,000.

b. Where necessary, the council may increase the allowable cost of a particular energy audit, provided that the total of all such increases does not exceed fifteen percent of the allocation for Iowa. Increases may be permitted for:

(1) The amount necessary to enable personnel from institutions having few buildings or in remote locations to attend training sessions qualifying them to perform energy audits;

(2) The amount necessary to provide transportation to perform energy audits of buildings in remote locations; and

(3) The amount necessary to conduct energy audits for a building having an unusually complicated system or configuration; however, this increase may not exceed fifty percent of the allowable cost for an individual building.

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CHAPTER 6
TECHNICAL ASSISTANCE AND ENERGY CONSERVATION:
GRANT PROGRAMS FOR SCHOOLS AND HOSPITALS
AND FOR BUILDINGS OWNED BY UNITS OF LOCAL
GOVERNMENT AND PUBLIC CARE INSTITUTIONS

380—6.1(93) General. The technical assistance and energy conservation measures program are phases two and three of the three-phase energy audit and conservation program that is partially funded by the United States department of energy. The proposed council regulations for phase one of this program are in chapter 5 of the council administrative rules. The federal regulations for this program are in 10 C.F.R. 455.10-455.102.

6.1(1) Purpose and scope. This subrule specifies:

a. What constitutes a technical assistance program eligible for financial assistance under this part, and sets forth the eligibility criteria for schools, hospitals, units of local government and public care institutions to receive grants for technical assistance to be performed in buildings owned by such institutions; and

b. What constitutes an energy conservation measure that may receive financial assistance under this part and sets forth the eligibility criteria for schools and hospitals to receive grants for energy conservation measures; including solar and other renewable resource measures.

6.1(2) Reserved.

380—6.2(93) Eligibility.

6.2(1) Financial assistance. To be eligible to receive financial assistance for a technical assistance program, an applicant must:

a. Be a school, hospital, unit of local government or public care institution as defined in chapter 5 of these rules, or be a co-ordinating agency representing a group of eligible institutions and which has been granted authority by the institutions to act in their behalf;

b. Have conducted an energy audit or its equivalent in accordance with chapter 5 of these rules for the building for which financial assistance is to be requested, subsequent to the most recent construction, reconfiguration or utilization change which significantly modified energy use within the building;

c. Give assurance that it has implemented all energy conservation maintenance and operating procedures identified as a result of the energy audit, or provide a satisfactory written justification for not implementing any specific maintenance and operating procedures so identified; and

d. Submit an application in accordance with the provisions of these rules.

6.2(2) Contents of a technical assistance program.

a. A technical assistance program shall be conducted by a qualified technical assistance analyst, who shall consider all possible energy conservation measures for a building, including solar or other renewable resource measures. A technical assistance program shall include a detailed engineering analysis to identify the estimated costs of, and the energy and cost savings likely to be realized from, implementing each identified energy conservation maintenance and operating procedure. A technical assistance program shall also identify the estimated cost of, and the energy and cost savings likely to be realized from, acquiring and installing each energy conservation measure, including solar and other renewable resource measures, that indicate a significant potential for saving energy based upon the technical assistance analyst's initial consideration.

b. At the conclusion of a technical assistance program, the technical assistance analyst shall prepare a final report which shall include—

(1) A description of building characteristics and energy data including the results of the preliminary energy audit and energy audit (or its equivalent) of the building, the operating characteristics of energy using systems, and the estimated remaining useful life of the building;

(2) An analysis of the estimated energy consumption of the building, by fuel type (in total Btu's and Btu/sq. ft./yr.), at optimum efficiency (assuming implementation of all energy conservation maintenance and operating procedures);

(3) An evaluation of the building's potential for solar conversion, particularly for water heating systems;

(4) A listing of any known local zoning ordinances and building codes which may restrict the installation of solar systems;

(5) A description and analysis of all recommendations, if any, for acquisition and installation of energy conservation measures, including solar and other renewable resource measures, setting forth a description of each recommended energy conservation measure, an estimate of the cost of design, acquisition and installation of each energy conservation measure, an estimate of the useful life of each energy conservation measure, an estimate of increases or decreases in maintenance and operating costs that would result from each energy conservation measure, if any, and estimate of the salvage value or disposal cost of each energy conservation measure at the end of its useful life, if any, an estimate of the annual energy and energy cost savings (using current energy prices) expected from the acquisition and installation of each energy conservation measure. In calculating the potential energy cost savings of each recommended energy conservation measure, including solar or other renewable resource measure, technical assistance analysts shall assume that all energy savings obtained from energy conservation maintenance and operating procedures have been realized, shall calculate the total energy and energy cost savings, by fuel type, expected to result from the acquisition and installation of all recommended energy conservation measures, taking into account the interaction among the various measures, and shall calculate that portion of the total energy and energy cost savings, as determined above, attributable to each individual energy conservation measure;

(6) A listing of energy use and cost data for each fuel type used for the prior twelve-month period; and

(7) Technical assistance analyst's statement. The report shall include a statement signed by the analyst that the analyst meets the applicable qualifications as set forth in rule 6.8(93), that the analyst has indicated any financial interests in accordance with 5.5(3)"d", and that the technical assistance program was conducted in accordance with the requirements of this subrule.

380—6.3(93) Energy conservation measures for schools and hospitals.

6.3(1) Eligibility. To be eligible to receive financial assistance for an energy conservation measure, including solar or other renewable resource measures, an applicant must:

a. Be a school or hospital, or both as defined in chapter 5 of these rules or be a coordinating agency which represents groups of eligible institutions and which has been granted

authority by the institutions to act in their behalf;

b. Have completed a technical assistance program or its equivalent in accordance with these rules for the building for which financial assistance is to be requested, subsequent to the most recent construction, reconfiguration or utilization change to the building which significantly modified energy use within the building;

c. Have implemented all energy conservation maintenance and operating procedures which are identified as the result of an energy audit and a technical assistance program, or have provided a satisfactory written justification for not implementing any specific maintenance and operating procedures so identified;

d. Have no plan or intention at the time of application to close or otherwise dispose of the building for which financial assistance is to be requested within the simple payback period of any energy conservation measure recommended for that building. The simple payback period shall be calculated in accordance with 10 C.F.R. 455.42(b)(5)(vii).

e. Submit an application in accordance with the provisions of these rules.

f. Demonstrate that the simple payback period of each energy conservation measure for which financial assistance is requested not less than one year nor greater than fifteen years, and the estimated useful life of the measure is not greater than its simple payback period.

6.3(2) Contents of an energy conservation measure program. The contents of an energy conservation measure program are at 10 C.F.R. 455.52 which describe measures to reduce energy consumption or measures to allow the use of solar or other alternative energy resources.

380—6.4(93) Grant application submittals.

6.4(1) Technical assistance programs.

a. Application from schools, hospitals, units of local government, public care institutions for financial assistance for technical assistance programs shall include:

- (1) The applicant's name and mailing address;
- (2) A written statement certifying that the applicant is eligible under 6.2(1);
- (3) The results of the preliminary energy audit and energy audit (or its equivalent) for each building for which financial assistance is requested;
- (4) A project budget, by building, which stipulates the intended use of all federal and non-federal funds, and identifies the sources and amounts of non-federal funds, including in-kind contributions (limited to the goods and services described in OMB Circular A-102, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments," which are directly related to the project and do not include funds derived from revenue sharing or other Federal sources), to be used to meet the cost-sharing requirements described in these rules;
- (5) A brief description, by building, of the proposed technical assistance program.

b. Applications for financial assistance for technical assistance programs shall include a signed statement that the applicant:

- (1) Has satisfied the requirements set forth in 6.4(1)"a";
- (2) Will expend granted funds for the purpose stated in the application and in compliance with federal requirements;
- (3) Has implemented all energy conservation maintenance and operating procedures recommended as a result of the energy audit. If any such procedure has not been implemented, the application shall contain a satisfactory written justification for not implementing that procedure;
- (4) Will obtain from the technical assistance analyst, before the analyst performs any work in connection with a technical assistance program, a signed statement certifying that the technical assistance analyst has no conflicting financial interests and is otherwise qualified to perform the duties of a technical assistance analyst in accordance with these rules;
- (5) Will comply with all applicable reporting requirements;
- (6) In the case of local government and public care institutions, a certification that the buildings are owned and primarily occupied by offices or agencies of a unit of local government or public care institution and that the buildings are not intended for seasonal use, and are not utilized primarily as a school or hospital;

(7) In the case of a school, a certification that financial assistance will not be used for a technical assistance program in any building of such agency which is used principally for administration.

6.4(2) Energy conservation measures.

a. Applications from schools or hospitals for financial assistance for energy conservation measures, including solar and other renewable resource measures, shall include:

- (1) The applicant's name and mailing address;
- (2) A written statement certifying that the applicant is eligible under 6.3(1);
- (3) Identification of each building for which financial assistance is requested, including the name or other identification of each building and its address, the building category, description of functional use, ownership, and the size of building expressed in gross square feet;
- (4) A project budget, by building, which stipulates the intended use of all federal and non-federal funds, and identifies the sources and amounts of non-federal funds, including in-kind contributions (limited to the goods and services described in OMB Circular A-102, "Uniform Requirements for Grants-in-Aid to State and Local Governments," which are directly related to the project and do not include funds derived from revenue sharing or other federal sources), to be used to meet the cost-sharing requirements described in these rules;
- (5) A schedule, including appropriate milestone dates, for the completion of the design, acquisition and installation of the proposed energy conservation measures for each building;
- (6) A list, by building, of the specific energy conservation measures proposed for funding, indicating the cost of each measure, the estimated energy and energy cost savings of each measure, the inflation-free rate of return on equity capital resulting from the investment in an energy conservation measure as calculated using the Commercial Building Ownership Energy Conservation Cost Analysis Model of the Council's Class A energy auditor training program, the projected simple payback period for each measure, computed in accordance with the methodology described in 10 C.F.R. 455.52(b)(5)(vii) or 455.52(w), as the case may be, and the average simple payback period for all measures proposed for the building. The average simple payback period of all measures proposed shall be determined by dividing the total estimated cost by the total projected annual cost saving (from energy savings only);
- (7) A technical assistance report, completed since the most recent construction, reconfiguration or utilization change to the building which significantly modified energy use, for each building;
- (8) If the applicant is aware of any adverse environmental impact which may arise from adoption of any energy conservation measure, an analysis of that impact and the applicant's plan to minimize or avoid such impact.

b. Applications for financial assistance for energy conservation measures, including solar and other renewable resource measures, shall include a signed statement that the applicant:

- (1) Has satisfied the requirements set forth in 6.4(2);
- (2) Will expend granted funds for the purpose stated in the application and in compliance with federal requirements;
- (3) Has implemented all energy conservation maintenance and operating procedures recommended as a result of the energy audit and, those recommended in the report obtained under a technical assistance program. If any such procedure has not been implemented, the application shall contain a satisfactory written justification for not implementing that procedure;
- (4) Will obtain from the technical assistance analyst, before the analyst performs any work in connection with an energy conservation measure, a signed statement certifying that the technical assistance analyst has no conflicting financial interests and is otherwise qualified to perform the duties of a technical assistance analyst in accordance with these rules;
- (5) Will not enter into any contract relating to an energy conservation measure, which requires or may require expenditure of more than \$5,000 (excluding technical assistance costs), that does not conform to the provisions of the Davis-Bacon Act (40 U.S.C. section 276a to 276a-5) pertaining to minimum wages for construction in the applicant's locality;
- (6) Will comply with all applicable reporting requirements; and

(7) In the case of a school, a certification that financial assistance will not be used for a technical assistance program in any building of such agency which is used principally for administration.

380—6.5(93) Grantee records and reports.

6.5(1) Each school, hospital, unit of local government, public care institution and coordinating agency which receives a grant for a technical assistance program, energy conservation measure, including solar and other renewable resource measures, shall keep all the records required by 10 C.F.R. 455.4.

6.5(2) By the end of January and July of each year, each grantee shall until the grantee's program has been concluded, submit a report to the council which shall detail and discuss:

a. Milestones accomplished, those not accomplished, status of in-progress activities, problems encountered, and remedial actions, if any, planned; and

b. Financial status reports completed in accordance with the documents listed in 10 C.F.R. 455.3. Financial status reports must be submitted simultaneously to both the council and the department of energy;

6.5(3) Within ninety days of concluding a technical assistance program or installation of funded energy conservation measures, including solar and other renewable resource measures, the grantee shall submit a final report to the council and a summary thereof to the department of energy which shall detail and discuss, as applicable.

1. A summary of all work accomplished;

2. Problems encountered;

3. Final financial reports completed in accordance with the documents listed in 10 C.F.R. 455.3;

4. For a completed technical assistance program: the technical assistance report and a recommended plan to implement energy conservation maintenance and operating procedures, and plans to acquire and install energy conservation measures, including solar and other renewable resource measures;

5. For completed energy conservation measures including solar and other renewable resource measures: a listing and description of energy conservation measures acquired and installed, a final projected simple payback period, computed in accordance with 10 C.F.R. 455.42, for each building specifying and utilizing the actual costs for each measure and all the measures taken as a whole, and a statement that the completed modifications (material, equipment and installation) conform to the report on the technical assistance program and the approved grant application.

6.5(4) Grantees shall keep all records required by these rules for a minimum of three years after completion of the technical assistance program or energy conservation measure for which the grant was awarded.

6.5(5) Grantees shall submit annual reports to the council covering each year of the three-year period following installation of an energy conservation measure or measures, or for the life of the program, whichever is shorter. Such annual reports shall identify each building and shall provide data on the actual energy use of that building for the preceding twelve-month period. Energy use shall be presented on a monthly or quarterly, as well as an annual basis, consistent with the energy billing cycle for the building. Annual reports shall be submitted within sixty days of the close of each twelve-month period.

380—6.6(93) Evaluation and ranking of applications.

6.6(1) Evaluation.

a. If an application received by the council is found to be in compliance with the provisions of this chapter, and other laws and regulations, then such application will be eligible for financial assistance.

b. The federal rules require that the council forward each application for a school or hospital to the appropriate state school facilities agency or state hospital facilities agency for review and certification that the schools and hospitals applications are consistent with state programs in these areas (455.70(b)). The council proposes to have the state department of

public instruction and the state department of health be the reviewing agencies for this program.

6.6(2) State ranking of grant applications.

a. All applications for technical assistance shall be ranked using the following factors:

(1) A building energy management index shall be constructed for each building type for eligible institutions participating in the program. The building energy management index (BEMI) will compute the Btu's/ft²/ man-hour occupancy (patient days in the case of hospitals)/year consumed by the buildings within a particular functional group. Energy excessive buildings within the group will thereby be identified. This technique will also estimate the annual energy savings possible by bringing the energy consumption of an energy excessive building to the norm (median) for the group. Based on the annual energy savings possible to achieve by bringing the excessive building in line with the median of other buildings in the group, the building will be given a certain number of points. Buildings identified in the building energy management index which are the excessive category shall be given points according to the following percentile ranking:

80 or above	50 points
60-79	40 points
40-59	30 points
20-39	20 points
below 19	10 points

(2) Type of fuel consumed: (primary heating fuel)

oil	15 points
LPG	12 points
natural gas	10 points
electricity	10 points
coal or other	5 points

(3) Cost of fuel consumed: (dollars expended/unit energy)

80	10 points
60-79	8 points
40-59	6 points
20-39	4 points
below 19	2 points

(4) Projected useful life of the building:

over 20	25 points
10-20	15 points
5-10	10 points

b. All applications for energy conservation measures shall be ranked using the following factors:

(1) A building energy management index shall be constructed for each building type for eligible institutions participating in the program. The building energy management index (BEMI) will compute the Btu's/ft²/ man-hour occupancy (patient days in the case of hospitals)/year consumed by the buildings within a particular functional group. Energy excessive buildings within the group will thereby be identified. This technique will also estimate the annual energy savings possible by bringing the energy consumption of an energy excessive building to the norm (median) for the group. Based on the annual energy savings possible to achieve by bringing the excessive building in line with the median of other buildings in the group, the building will be given a certain number of points. Buildings identified in the building energy management index which are the excessive category shall be given points according to the following percentile ranking:

80 or above	20 points
60-79	15 points
40-59	10 points
20-39	5 points
below 19	10 points

(2) An inflation-free rate of return on equity capital resulting from the investment in an energy conservation measure as calculated using the Commercial Building Ownership Energy Conservation Cost Analysis Model of the Council's Class A energy auditor training program. This model takes into account fuel savings that escalate at a constant rate over the life of each energy conservation measure, but at a rate different from the rate of inflation. In addition to fuel costs, other inputs to the model are the first cost of the energy conservation measure, the net salvage value at the end of the useful life of the measure, and other net operating costs associated directly with the measures that are likely to escalate at the general rate of inflation. The model also provides for financing by both debt and equity capital, income tax, investment tax credit, three methods of depreciation write-offs (straight line, sum-of-the-years digits, and short life), and sale or disposal of present system.

Once the inflation-free rate of return (IFRR) in percent is calculated, points shall be awarded as follows:

IFRR $\leq$ 8%	0 points
IFRR $>$ 8%	2 x (IFRR) points
(3) Type of energy to be saved:	
oil conservation	20 points
nat. gas conservation	10 points
electric conservation	5 points
(4) Type of energy source to which conversion is proposed:	
solar or other renewable	
resource conversion	10 points
coal conversion	5 points

6.6(3) Allocation of funds. Of the total funds allocated to the eligible school and hospital buildings for technical assistance and energy conservation measures, thirty percent will initially be allocated to school facilities and thirty percent to hospital facilities. Once this initial sixty percent of funding is allocated, the schools and hospitals that remain will be allocated the remaining forty percent of funding on the basis of criteria established in 6.6(2)"a" and 6.6(2)"b". This subrule insures that neither hospitals nor schools will receive more than seventy percent of the funding, pursuant to 455.82(d).

6.6(4) Severe hardship consideration.

a. Applicants for technical assistance and energy conservation measure grant funds who are unable to provide the fifty percent non-federal share can apply for additional financial assistance to cover more than fifty percent, but not greater than ninety percent, of the cost of a technical assistance program or an energy conservation measure. The application for severe hardship consideration shall stipulate the amount of federal funds requested and shall include the following information in addition to the requirements of 6.4(93) of these rules:

- (1) The ratio of the cost of the proposed technical assistance or energy conservation programs to the institution's total annual budget;
- (2) The borrowing capacity of the institution;
- (3) The average unemployment rate for the institution's locality;
- (4) The ratio of the institution's annual energy budget to its total operating budget;
- (5) The median family income of the institution's locality; and
- (6) A written statement by the department of health (in the case of hospitals) and the department of public instruction (in the case of schools) that the subject application is a hardship case deserving of special consideration.

b. The council shall rank the hardship applications on the basis of the ranking criteria contained in 6.6(2) of these rules.

c. Since an application for hardship consideration means that the institution cannot meet the non-federal match without the hardship grant, an institution whose application is disapproved will not be given further consideration for financial assistance in that grant cycle. The institution shall be eligible to apply in any succeeding grant cycles.

380—6.7(93) Grant awards. The grant awards from the U.S. department of energy for technical assistance or energy conservation programs shall be only up to fifty percent of their cost, except in the case of severe hardship, as outlined in 6.6(4). The school, hospital, unit of local government, or public care facility must provide the remaining fifty percent from either non-federal local funds or in-kind contributions, as defined in subrule 5.1(2) of the council rules.

380—6.8(93) Technical assistance analysts. In order to qualify for a technical assistance analyst, a person must:

1. Be a certified Class A energy auditor as prescribed in chapter 4 of these rules; or
2. Be a registered engineer, as defined in chapter 114, Code of Iowa or in the case of an architect, be registered in accordance with chapter 118, Code of Iowa and be a part of an architect-engineer team; and be knowledgeable and experienced in energy conservation matters.

[Filed emergency after Notice 9/14/79, Notice 8/8/79—published 10/3/79, effective 9/14/79]



390—3.11(114) Hardships or extenuating circumstances. The board may in individual cases involving hardship or extenuating circumstances grant waivers of the continuing education requirements for a period of time not to exceed one year. No waiver or extension of time shall be granted unless the registrant makes a written request to the board for such action.

390—3.12(114) Noncompliance. A registrant who in the opinion of the board does not satisfy the requirements for license renewal stated in this chapter will be placed on probationary status and notified of the fact within ninety days after the renewal date. Within ninety days after such notification, the registrant must submit evidence to the board demonstrating that the deficiencies have been satisfied. If the deficiencies are not made up within the specified period of time, the registrant's license will be classified as lapsed without further hearing.

390—3.13(114) Requirements for initial years. Individuals who are registrants on the effective date of these rules shall satisfy the appropriate formal professional development requirement specified in rule 3.3(114) or 3.8(114) according to the following schedule:

Requirements for license renewal on January 1, 1981:

The annual requirement must be accumulated prior to January 1, 1981, during the twenty-four month period preceding such date.

Requirements for license renewal on January 1, 1982:

Two times the annual requirement must be accumulated prior to January 1, 1982, during the thirty-six-month period preceding such license renewal.

Requirements for license renewal on January 1, 1983 and thereafter: Same as rule 3.3(114) or 3.8(114).

The informal professional development requirement must be satisfied in accordance with rule 3.3(114) or 3.8(114) beginning with license renewal on January 1, 1981.

390—3.14(114) New registrants. Applicants who become registered in Iowa after the effective date of these rules shall satisfy the appropriate formal professional development requirements specified in rule 3.3(114) or 3.8(114) according to the following schedule:

Requirements for first license renewal: No formal professional development hours required.

Requirements for second license renewal: The annual requirement must be accumulated prior to the second license renewal during the twenty-four month-period preceding such license renewal.

Requirements for third license renewal: Two times the basic requirement must be accumulated prior to the license renewal during the thirty-six month period preceding such license renewal.

Fourth and subsequent license renewal: Same as rule 3.3(114) or 3.8(114).

The informal professional development requirement must be satisfied in accordance with rule 3.3(114) or 3.8(114) beginning with the second license renewal.

390—3.15(114) Reports and records. At the time of application for license renewal, each registrant shall report on a form provided by the board the professional development activities undertaken during the preceding year to satisfy the requirements of this chapter.

The registrant shall maintain a file in which records of the activities are kept, including dates, subjects, duration of programs, registration receipts where appropriate and other appropriate documentation, for a period of four years after the date of the program.

[Filed 12/8/78, Notice 10/4/78—published 12/27/78, effective 1/31/79]

CHAPTER 4 DISCIPLINE AND PROFESSIONAL CONDUCT OF REGISTRANTS

390—4.1(114) General statement. Protection of the life, health and welfare of the people in Iowa requires that the board deal with cases involving malpractice or violation of chapter 114, Code of Iowa.

390—4.2(114) Reprimands, probation, license suspension or license revocation. Acts or omissions on the part of a registrant that are grounds for a reprimand, period of probation, license suspension or license revocation are as follows:

4.2(1) Acts or offenses defined in section 114.21, Code of Iowa.

4.2(2) Acts or omissions which constitute negligence or carelessness that registrants must report to the board as defined in rule 4.3(114).

4.2(3) Violations of the rules of professional conduct in rule 4.7(114).

4.2(4) Failure to respond within thirty days to written communications from the board and to make available any relevant records with respect to an inquiry or complaint about the registrant's unprofessional conduct. The period of thirty days shall commence on the date when such communication was sent from the board by registered or certified mail with return receipt requested to the address appearing in the last registration.

4.2(5) Failure to comply with a warning from the board with respect to registrant behavior.

4.2(6)* The board will as a general rule not consider as grounds for discipline acts involving engineering or land surveying services which terminate more than five years before the date of the complaint or more than five years after the date when the grounds for the complaint should reasonably have been discovered.

This rule is intended to implement section 114.21 of the Code.

390—4.3(114) Reporting of acts or omissions. Registrants shall report acts or omissions by a registrant which constitute negligence or carelessness. For the purposes of this section of the administrative rules, negligence or carelessness means demonstrated unreasonable lack of skill in the performance of engineering or land surveying services by failure of a registrant to maintain a reasonable standard of care in the registrant's practice of engineering or land surveying. In the evaluation of reported acts or omissions, the board shall determine if the engineer or land surveyor has applied his or her learning, skill and ability in a manner consistent with the standards of the professions ordinarily possessed and practiced in the same profession at the same time. Standards referred to in the immediately preceding sentence shall include any minimum standards adopted by this board and any standards adopted by recognized national engineering societies.

390—4.4(114) Peer review committees. The board may appoint a peer review committee for the investigation of a complaint about the acts or omissions of one or more registrants.

4.4(1) Membership. A committee shall consist of three or more engineers and/or land surveyors, as determined by the board, who are selected for their knowledge and experience in the type of engineering or land surveying involved in the complaint.

The following are ineligible for membership:

a. Members of the Iowa State Board of Engineering Examiners.

b. Close relatives of the alleged violator(s) or complainant.

c. Individuals employed by the same firm or governmental unit as the alleged violator(s) or complainant.

4.4(2) Authority. The committee's investigation shall be limited to interviewing of: Complainants, the alleged violator, individuals with knowledge of the alleged violation, and individuals with knowledge of the alleged violator's reputation in the community.

The committee may not hire legal counsel, investigators, secretarial help or any other assistants without written authorization from the board.

At its September 12th meeting the Administrative Rules Review Committee voted the following objection:

The Committee objects to Engineering rule 4.2(6), appearing as ARC 0464 in Vol. II, Number 3, IAB, August 8, 1979, on the grounds it exceeds the authority of the board. The rule in effect establishes a form of statute of limitations for the imposition of licensee discipline. Chapter 114, the Code empowers the board to impose licensee discipline on certain specified grounds; it does not appear to contain any time limitations for the imposition of discipline.



PLANNING AND PROGRAMMING[630]

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CHAPTER 16 EDA 304 PROGRAM

[Ch 16, Health Manpower Project, rescinded 11/7/79]

630—16.1(PL89—136.304 (42USC3121 et seq.) Purpose. The Public Works and Economic Development Act of 1965, as amended apportions to states, on a formula basis, Economic Development Administration 304 funds (EDA 304) to be used by the governor in funding grants or loans for projects or assistance authorized under Titles I, II, III, IV or IX of the Act. To receive the federal funds the state of Iowa must provide a cash match of twenty-five percent for each grant or loan funded. The combined federal and state funds constitutes the EDA 304 program administered and monitored by the office for planning and programming.

16.1(1) Title I provides direct grants for acquisition or development of land and improvements for public works, public service or development facility usage; and the acquisition, construction, rehabilitation, alteration, expansion or improvement of such facilities, including related machinery and equipment within a redevelopment area.

Title I also provides supplementary grants to enable the state and other entities within redevelopment areas to take maximum advantage of designated federal grants-in-aid programs (designated by EDA) for which they are eligible but for which, because of their economic situation, they cannot supply the required matching share.

16.1(2) Title II provides loans to assist in financing the purchase or development of land and improvements for public works, public service or development facility usage.

16.1(3) Title III provides grants-in-aid for technical assistance, including project planning and feasibility studies, management and operational assistance, and studies evaluating the needs of, and development potentialities for, economic growth of the project area.

16.1(4) Title IV provides for the establishment of redevelopment areas and economic development districts. The title also provides for funds to alleviate economic distress of American Indians, in addition to their eligibility for assistance authorized under other parts of the public works and Economic Development Act of 1965, as amended.

16.1(5) Title IX provides grants-in-aid to areas that have experienced, or may reasonably expect to experience, a special need to meet an unexpected rise in unemployment, or other economic adjustment problems.

630—16.2(PL89—136.304) Proposal criteria. The criteria for eligibility under section 304 appears in Public Law 89—136.304, United States Code, vol. 42, chapter 3121 et seq., and "EDA Directive 17.03", February 5, 1979. After the application and review procedures are completed, the governor will recommend to the Rocky Mountain Regional Office of the Economic Development Administration those EDA 304 projects proposals which best meet the federal and state criteria as found in PL89-136 and the "EDA 304 Program Guide for Iowa".

630—16.3(PL89-136) Proposal procedure. Qualified organizations interested in receiving EDA 304 funds shall submit a written proposal as specified in the "EDA 304 Program Guide for Iowa", available upon request from the Office for Planning and Programming, 523 East 12th Street, Des Moines, Iowa 50319.

16.3(1) Proposals may be submitted at any time, but will only be considered when there are funds available. Upon the allocation of funds to the state, an announcement of availability of funds will be made to areawide planning organizations, League of Iowa Municipalities, Iowa State Association of Counties, and the Iowa Development Commission. A deadline for the submission of proposals will be set. Any proposals received after the deadline will be considered during the next funding period.

16.3(2) When the deadline for submission of proposals has expired, staff from the division of municipal affairs of the office for planning and programming, will review the qualified proposals. After consultation with the Iowa Development Commission staff, the governor's office and the federal economic development representative for Iowa and Missouri, proposals will be ranked according to their merit based on the criteria stated in the "EDA Program Guide for Iowa". Proposals receiving the highest rankings will be recommended for funding.



16.3(3) The recommended proposals will be submitted to the economic development representative for completion of a profile on the proposals. Profiles will then be submitted to the EDA regional director for review.

630—16.4(PL89-136) **Application procedure.** The economic development representative, upon notification from the EDA regional director, will advise the governor and notify the applicants of project eligibility. An application must be prepared using the appropriate EDA application forms, which can be obtained from the economic development representative. Preparation of an application shall follow the guidelines set forth in the Office of Management and Budget (OMB) Circular A-102.

16.4(1) The completed application will be submitted to the Rocky Mountain Regional Office of the Economic Development Administration for review. Each application must be accompanied by a letter from the governor which requests the use of EDA 304 funds for the project; pledges the necessary twenty-five percent state cash match, specifying the amount; assures that the project is consistent with the state section EDA 302(a) planning program; assures that this assistance will not diminish other federal or state funding; and assures that local officials concur with the investment decision of the application.

16.4(2) Reserved.

630—16.5(PL89-136) **Grant recipients responsibility.** All recipients of EDA 304 Program funds must submit a quarterly requisition packet consisting of the following forms:

1. State of Iowa Claim for Reimbursement.
2. Quarterly Expenditure Report.

630—16.6(PL89-136) **Public information.** Information regarding the EDA 304 Program may be obtained by contacting the Office for Planning and Programming, 523 East 12th Street, Des Moines, Iowa 50319, telephone (515) 281-8099. Information regarding application procedures contained in OMB Circular A-102 may be obtained from the EDA Economic Development Representative, 1114 Market Street, Room 648, St. Louis, Missouri 63101.

[Filed 9/6/79, Notice 6/27/79—published 10/3/79, effective 11/7/79]

CHAPTER 17*
EMERGENCY ENERGY ASSISTANCE PROGRAM (EXTENDED)
EEAP (Extended)

630—17.1(7a) Purpose. Pursuant to a grant from the Community Services Administration (CSA) under the provisions of Section 222(a)(12) of the Economic Opportunity Act of 1964, as amended, the office for planning and programming (OPP) has administered an emergency energy assistance program (EEAP) beginning on April 13, 1978 and ending May 20, 1978. However, a judgment by consent was issued by the United States District Court ordering CSA to make unobligated program funds available until March 15, 1979, with the base period for eligibility being from January 1 through June 30, 1978.

The purpose of the EEAP (Extended) is to relieve part of the burden that high energy costs and last winter's unusually severe weather placed on the poor and the near-poor by providing financial assistance to eligible households. This program will reinstate the portion of the program that originally allowed more liberal guidelines.

630—17.2(PL94-341) Eligible households. All households assisted by this program must meet both income eligibility and program eligibility requirements.

17.2(1) Income eligibility shall include those individuals and households of age sixty and above (head of household sixty years of age or older) whose income for any ninety-day period between January 1, 1978 and June 30, 1978 was between 125 percent and 150 percent of the CSA poverty guidelines or elderly individuals and couples (age sixty and over) who receive supplementary security income. It shall also include individuals and households whose income for any ninety-day period between January 1, 1978 and June 30, 1978 was no higher than 125 percent of the CSA poverty guidelines and who have not been previously assisted by EEAP.

17.2(2) If a household meets income eligibility guidelines, program eligibility must be determined. An emergency energy need must have existed during the 1977-78 winter, the person must have lacked fiscal resources to meet this need, and the lack of these resources must have resulted in serious hardship. In order to demonstrate program eligibility, applicants must provide copies or evidence of utility/fuel bills, paid or unpaid, which were due during the period January 1, 1978 through June 30, 1978.

The applicant must also be asked to provide proof that these bills (or payment of them) created for the applicant an emergency need which the person or household did not have the resources to meet. When such proof is not available a self-declaration that such an emergency need existed, when accompanied by the copies or evidence of bills (paid or unpaid), will be sufficient demonstration of program eligibility.

In those cases where the applicants cannot supply copies or evidence of utility/fuel bills (paid or unpaid) from the period January 1, 1978 through June 30, 1978, local program operators may accept current fuel/utility bills (paid or unpaid) for purposes of identifying an applicant's utility/fuel vendor and as evidence of the vendor-vendee relationship; but in such cases applicants must sign an affidavit that they did in fact incur energy bills during the period January 1, 1978 through June 30, 1978 which caused them serious hardship.

If a household meets the income guidelines and it can be verified that at least twenty percent of their income was expended for energy/fuel to maintain a comfortable and healthful climate in their residential dwelling during any billing period between January 1 through June 30, 1978, the household shall be eligible for assistance.

17.2(3) Grantees shall not exclude any energy-related utility or fuel expense from coverage under this program. Fuel and utility bills eligible for payment shall include, but not be limited to those for operating cooking stoves, lights, water, furnaces, space heaters, wood-burning stoves, and refrigerators. However, telephone bills are not eligible for payment. Funds also may be used to cover such items as blankets and warm clothing, temporary space heaters, emergency furnace repairs, firewood, fuel oil delivery, temporary

*Emergency, pursuant to §17A.5(2)"b"(2) of the Code.

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c. A representation petition, filed by a public employer requesting an election to determine the bargaining representative, if any, of the employees in the bargaining unit.

4.3(2) *Showing of interest—certification—decertification—intervention.* Whenever a petition for certification or decertification is filed, or whenever intervention is requested for the purpose of being placed on an election ballot, the petitioner or intervenor shall submit therewith evidence that the petition or application for intervention is supported by employees in the unit in the following percentages: Thirty per cent for certification or decertification and ten per cent for intervention in election proceedings. In petitions for certification or applications for intervention, such interest showing shall be dated and signed not more than one year prior to its submission; shall contain the job classification of the signator; and shall contain a statement that the signator is a member of the employee organization or has authorized it to bargain collectively on his behalf. In appropriate cases, an authenticated dues checkoff list may be used for this purpose. In petitions for decertification, evidence of interest shall be as provided above and shall further contain a statement that the signator no longer wishes to be represented by the certified employee organization.

4.3(3) *Determination of showing of interest.* The public employer shall, upon request, submit to the board a list of the names and job classifications of the employees in the unit requested by the petitioner. The board shall administratively determine the sufficiency of the showing of interest upon receipt of such list. Such determination shall be confidential and not subject to review, and parties other than the parties submitting the interest showing shall not be entitled to a copy, or examination of, the showing of interest; if the employer fails to furnish the list of employees, the board shall determine the sufficiency of the showing of interest by whatever means it deems appropriate. In election proceedings where the petitioner withdraws its petition pursuant to subrule 4.1(3), in the presence of an intervenor, the election shall not be conducted unless the intervenor produces a 30 percent showing of interest within a time period determined by the director.

4.3(4) *Notice.* Upon the filing of a petition for certification, decertification or representation, the board shall furnish to the employer a notice to employees, giving notice to employees that an election petition has been filed and setting forth the rights of employees under the Act. Such notices shall be posted by the public employer in conspicuous places customarily used for the posting of information to employees.

4.3(5) *Direction of election.* Whenever an election petition is filed which conforms to these rules and the Act and the appropriate bargaining unit has been previously determined, an election shall be directed and conducted.

4.3(6) *Intervention.* See 4.1(2).

660—4.4(20) Concurrent (combined) petitions.

4.4(1) *When to file.* A combined petition for both bargaining unit determination and bargaining representative determination shall be filed whenever a question of representation exists and the bargaining unit has not been previously determined by the board.

4.4(2) *Content of petition.* A combined petition for unit determination and representative determination (election) shall be on a form provided by the board and shall be filed by delivery of an original and two copies thereof to the board.

4.4(3) *Notice of petition, hearing, and notice to employees.* Upon receipt of a combined petition, notice shall be as provided in 4.2(2), 4.2(3) and 4.3(4).

4.4(4) *Showing of interest.* Showing of interest shall be as provided in 4.3(2) and 4.3(3). Should the board determine an appropriate unit different than that requested, any employee organization affected thereby may request a reasonable period of time to submit additional evidence of interest sufficient to satisfy the requirements of the Act.

4.4(5) *Scope of hearing.* Hearings on combined petitions shall resolve all issues with regard to both bargaining unit determination and bargaining representative determination.

4.4(6) *Intervention.* See 4.1(2).

4.4(7) *Professional and nonprofessional elections.* See 4.2(5).

660—4.5(20) Unit reconsideration. A petition for reconsideration of a board-established bargaining unit may be filed by an employee organization or an employee of the public employer, where the initial unit determination was made in the absence of a question of representation. Such petition may be filed only in combination with an election petition. The rules set forth in 4.1(20), 4.2(20), 4.3(20) and 4.4(20) shall apply, except that the board may investigate such petition and, if it determines that the petitioner has not established grounds that the previous board determination of the bargaining unit is inappropriate, the board may dismiss such petition forthwith. A petition for reconsideration of a board-established bargaining unit covering state employees may not be filed until after one year of the initial unit determination.

660—4.6(20) Amendment of unit or certification.

4.6(1) *Petition.* A petition for amendment of a board determined bargaining unit or amendment of a certification with respect thereto may be filed by the public employer or the certified employee organization. Such petition shall contain:

- a. Name and address of the public employer and the employee organization.
- b. An identification of the proposed amended unit or certification and a description of the proposed amended unit or certification.
- c. The names and addresses of any other employee organizations which claim to represent any employees affected by the proposed amendment or a statement that the petitioner has no knowledge of any other such organization.
- d. Job classifications of the employees as to whom the issue is raised and the number of employees, if any, in each classification.
- e. A specific statement of the petitioner's reasons for seeking amendment of the unit or certification and any other relevant facts.

4.6(2) *Procedure—decision.* Insofar as applicable, the rules set forth in 4.2(20) shall apply, except that the board may conduct an investigation and issue a decision and order without hearing. Where appropriate, such order may amend the certification of the affected employee organization(s) consistent with the decision.

4.6(3) *Elections; when required.* Where a question of representation is found to exist, no unit or certification shall be amended unless the employees sought to be added to the unit have chosen to be represented pursuant to a board-conducted election under chapter 5 of these rules.

660—4.7(20) Unit clarification. A petition to clarify the inclusion or exclusion of job classifications or employees in a board determined bargaining unit may be filed by the public employer, an affected public employee, or the certified employee organization. Such petition must be in the absence of a question of representation. Insofar as applicable, the procedures for such filing shall be as provided in subrules 4.6(1) and 4.6(2).

These rules are intended to implement chapter 20 of the Code.

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CHAPTER 5 ELECTIONS

660—5.1(20) General procedures.

5.1(1) *Notice of election.* Upon direction of an election, notices of election, in a form provided by the board, shall be posted by the public employer in conspicuous places customarily used for the posting of information to employees. Such notices shall contain a sample ballot and shall set forth the date, time, place and purpose of the election, and such additional information as the board may deem appropriate.

5.1(2) *Eligibility—eligibility list.* Eligible voters are those employees who:

- a. Were employed in the bargaining unit during the payroll period immediately preceding the final determination of the appropriate unit or the filing of the election petition, whichever occurs later, and

6.3(2) Expedited resolution. In the event that a negotiability dispute arises between the employer and the certified employee organization, either party may petition the board for expedited resolution of the dispute. Such petition shall set forth the material facts of the dispute, the precise question of negotiability submitted for resolution, and certificate of service upon the other party. In the event a negotiability dispute arises at the fact-finding stage of impasse procedures, the parties shall present evidence on all issues to the fact-finder, who shall immediately thereafter petition the board for expedited resolution of the negotiability dispute. In the event a negotiability dispute arises at the arbitration stage of impasse procedures, either party may petition the board for expedited resolution, which petition shall be filed within seven days of the submission of final offers. An arbitration award rendered prior to final determination of the negotiability dispute will be made conditional upon such determination.

6.3(3) Decisions. The petition filed pursuant to section 6.3(2) shall be given priority by the board. If deemed necessary by the board, the petition may be set for hearing or argument.

660—6.4(20) Acceptance of proposed agreement. Where the parties have reached a proposed (or "tentative") collective bargaining agreement, the terms of that agreement shall be made public, and the employee organization shall give reasonable notice of the date, time and place of a ratification election on the tentative agreement to the public employees; provided, however, that such notice shall be at least twenty-four hours prior to the election and the election shall be within seven days of the date of the tentative agreement. The vote shall be by secret ballot and only members of the employee organization shall be entitled to vote; provided, however, that the employee organization may, pursuant to its internal procedures, extend voting rights to nonmember bargaining unit employees. The employee organization shall within twenty-four hours notify the public employer whether the proposed agreement has been ratified.



The public employer shall, within ten days of the tentative agreement, likewise meet to accept or reject the agreement, and shall within twenty-four hours serve notice on the employee organization of its acceptance or rejection of the proposed agreement; provided, however, that the public employer shall not be required to either accept or reject the tentative agreement if it has been rejected by the employee organization.

The above time limits shall not apply to proposed agreements between the state and any bargaining unit of state employees.

660—6.5(20) Negotiations report—filing of agreement. Not later than sixty days after conclusion of an agreement, the public employer shall submit to the director a report of negotiations procedures on a form provided by the board and shall attach thereto two copies of said agreement.

These rules are intended to implement chapter 20 of the Code.

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CHAPTER 7 IMPASSE PROCEDURES

660—7.1(20) General. Except as provided in subrule 7.5(6), the rules set forth in this chapter are applicable only in the absence of an impasse agreement between the parties or the failure of either to utilize its procedures. Nothing in these rules shall be deemed to prohibit the parties, by mutual agreement, from proceeding directly to binding arbitration at any time after impasse.

660—7.2(20) Fees of neutrals. Qualified fact-finders and arbitrators appointed from a list maintained by the board may be compensated by a sum not to exceed two hundred fifty dollars per day of service, plus their necessary expenses incurred.

660—7.3(20) Mediation.

7.3(1) Request for mediation. Either party in an impasse may request the board in writing to appoint a mediator to an impasse.

An original and one copy of the request for mediation shall be filed with the board and shall, in addition to the request for mediation, contain:

a. The name, address, business and resident telephone numbers of the requesting party, and its bargaining representative or chairperson of the bargaining team of the requesting party.

b. The name, address, business and resident telephone numbers of the opposing party to the impasse, and its bargaining representative or chairperson of the bargaining team.

c. A description of the collective bargaining unit or units involved and the approximate number of employees in each unit.

d. A concise and specific listing of the negotiated items upon which the parties have reached impasse.

7.3(2) Date, signature and notice. The request for mediation shall be dated and signed by the requesting party. The requesting party shall also serve a copy of the request upon other parties to the negotiations either by personal delivery or by restricted certified mail.

7.3(3) *Appointment of mediator.* Upon receipt by the board of a request for mediation, the board may appoint an impartial and disinterested person as mediator of the dispute and notify all parties of the appointment of the mediator. The director shall determine the effective date of such appointment.

7.3(4) *Confidential nature of mediation.* Any information, either written or oral, disclosed by the parties to the mediator in the performance of his duties shall not be discussed by the mediator voluntarily or by compulsion unless approved by the parties involved.

The mediator shall not disclose any information with regard to any mediation conducted by him on behalf of any party to any cause pending in any proceeding before any court, board, investigatory body, arbitrator or fact-finder without the written consent of the public employment relations board. Without such written consent, the mediator shall respectfully decline, by reason of this rule, to divulge any information disclosed by a party in the performance of the mediator's duties.

7.3(5) *Mediation proceedings.* The mediator may hold separate or joint meetings with the parties or their representatives, and such meetings shall not be public. Mediation meetings shall be conducted at such time and place as designated by the mediator. If an impasse exists ten days after the effective date of the appointment of a mediator, the mediator shall so notify the director.

7.3(6) *Board mediator.* When the mediator is an employee of the Public Employment Relations Board, that mediator shall not participate in any contested case arising out of any transaction or occurrence relating to those mediation activities.

7.3(7) *Costs of mediation.* The mediator shall submit in writing to the director a list of his fees and expenses.

660—7.4(20) *Fact-finding.*

7.4(1) *Appointment of fact-finder.* Upon notification by the mediator that the dispute remains unresolved, the director shall appoint a fact-finder. Where the parties and the mediator agree, the director shall appoint the mediator to serve as fact-finder.

7.4(2) *Powers of the fact-finder.* The fact-finder shall have the power to conduct a hearing, administer oaths and request the board to issue subpoenas. The subject of fact-finding shall be the impasse items unresolved by mediation. By mutual agreement, the fact-finder may also assist the parties in negotiating a settlement.

7.4(3) *Notice of hearing and exchange of proposal.* The appointment of the fact-finder shall be effective the date of the commencement of the fact-finding hearing. The director or fact-finder shall establish the time, place and date of hearing and shall notify the parties of the same. The parties shall exchange copies of all proposals to be presented to the fact-finder at least five days prior to the commencement of a fact-finding hearing; provided, however, that the parties may continue to bargain and nothing in this section shall be deemed to preclude a party from making a concession or amending its proposals in the course of further bargaining. No party shall present a proposal to the fact-finder which has not been offered to the other party in the course of negotiations.

7.4(4) *Briefs and statements.* The fact-finder may require the parties to submit a brief or a statement on the unresolved impasse items.

7.4(5) *Hearing.* A fact-finding hearing shall be open to the public and shall be limited to matters which will enable the fact-finder to make recommendations for settlement of the dispute.

7.4(6) *Report of the fact-finder.* Within fifteen days of appointment, the fact-finder shall issue to the parties a "Report of Fact-Finder" consisting of specific findings of fact concerning each impasse item, and separate therefrom, specific recommendations for resolution of each impasse item. In addition, the report shall recite the impasse items resolved by the parties during fact-finding and withdrawn from further impasse procedures. The report shall also identify the parties and their representatives and recite the time, date, place and duration of hearing sessions. The fact-finder shall serve a copy of the report to the parties and file the original with the director.

7.4(7) Action on fact-finder's report. Upon receipt of the fact-finder's report, the public employer and the certified employee organization shall immediately accept the fact-finder's recommendations or shall within five days submit the fact-finder's recommendations to the governing body and members of the certified employee organization for acceptance or rejection. "Immediately" shall mean a period of not longer than seventy-two hours from said receipt. Notice to members of the employee organization shall be as provided in 6.4(20).

7.4(8) Publication of report by board. If the public employer and the employee organization have failed to conclude a collective bargaining agreement ten days after their receipt of the fact-finder's report and recommendations, the board shall make public the fact-finder's report and recommendations.

7.4(9) Cost of fact-finding. The fact-finder shall submit to the parties a written statement of his fee and expenses with a copy thereof to the director. The parties shall share the costs of fact-finding equally.

660—7.5(20) Binding arbitration.

7.5(1) Request for arbitration. At any time following the making public by the board of the fact-finder's report and recommendations, either party to an impasse may request the board to initiate binding arbitration.

7.5(2) Form and contents of request. The request for arbitration shall be in writing and shall include the name, address and signature of the requesting party and the capacity in which acting.

7.5(3) Service of request. The requesting party shall serve a copy of the request for arbitration upon the opposing party by ordinary mail.

7.5(4) Preliminary information. Within four days of the filing of the request with the board for arbitration, each party shall submit to the board the following information:

a. Two copies of the final offer of the party on each impasse item.
b. Two copies of the agreed upon provisions of the proposed collective bargaining agreement.

c. The name of the parties' selected arbitrator, or name of a single arbitrator where the parties agree to submit the dispute to a single arbitrator.

d. Certificate of service upon the opposing party of items "a" and "c" above.

7.5(5) Selection of chairperson. Within eight days of the filing of the request for arbitration, the arbitrators selected by each party shall attempt to agree upon the selection of a third person to act as chairperson of the arbitration panel. If the parties to the impasse fail to agree upon an arbitration chairperson within the time allotted under this rule, the director shall submit a list of three persons who have agreed to act as arbitration chairperson to the parties. The parties shall then select the arbitration chairperson from the list as provided by the Act.

7.5(6) Conduct of hearings. Arbitration hearings shall be open to the public. The arbitration hearing shall be limited to those factors listed in section 20.22 of the Code and such other relevant factors as may enable the arbitration panel to select the fact-finder's recommendation or the final offer of either party for each impasse item. Arbitrators appointed pursuant to impasse procedures agreed upon by the parties shall likewise consider the factors listed in section 20.22.

7.5(7) Continued bargaining. The parties may continue to bargain on the impasse items before the arbitration panel until such time as the arbitration panel announces its decision. Should the parties reach agreement on an impasse item, they shall immediately report their agreement to the arbitration panel. The arbitration panel shall add the agreed upon term to the collective bargaining contract and shall no longer consider the final offers of the parties or the fact-finder's recommendation on that impasse item.

7.5(8) Report of the arbitration panel. Within fifteen days after its first meeting (unless such time period is waived by the parties), the arbitrator or arbitration panel shall issue its award and serve each party and the director with a copy. In reaching the panel decision, the chairperson may communicate telephonically, by mail, or may meet individually or collectively with the other panel members.

7.5(9) Dismissal of panel. In the event of a failure of the arbitrator or arbitration panel to issue its award within fifteen days of its first meeting, the arbitrator or chairperson of the arbitration panel shall notify the director and the parties of such failure. Either party may thereafter request a new arbitration panel. Unless the parties agree otherwise, the procedures in subrules 7.5(1) to 7.5(5) shall apply; provided, however, that the parties may submit new final offers and nominate different arbitrators. No arbitration panel shall issue a partial award except by mutual consent of the parties.

7.5(10) Statement of services. Persons serving as arbitrators shall furnish the director with an information copy of their statements for services and expenses.

These rules are intended to implement chapter 20 of the Code.

660—7.6(20) Impasse procedures after budget certification.

7.6(1) Objections. Any objection by a party to the conduct of arbitration proceedings which will not be completed by the budget certification date shall be filed with the board and served upon the other party no later than ten days after receipt of a request for arbitration, or twenty days prior to the budget certification date, whichever occurs later. Failure to file such objection in a timely manner may constitute waiver of such objection, in which case the budget certification deadline for completion of impasse procedures shall not apply.

7.6(2) Response to objection. The party which requested arbitration may within ten days file a response to the objection, asserting that, because of deliberate delay on the part of the objecting party, or unavoidable casualty, misfortune or other events beyond the parties' control, impasse procedures should continue beyond the budget certification deadline. In the event that such a response is not filed within ten days of receipt of the objection, the board may issue an order terminating further impasse procedures.

7.6(3) Procedure. Filing of an objection before the budget certification date shall not affect the obligation of each party to continue the impasse procedures. Further, the board may postpone hearing on the objection if it determines that an arbitration award may be rendered on or before the budget certification date; in making that determination, the board will attempt to expedite any remaining impasse proceedings, but no party shall be required to waive or shorten any statutory time periods which apply to that party.

7.6(4) Hearings. Insofar as is applicable, hearings shall be conducted pursuant to chapter 2 of these rules. The party seeking arbitration shall proceed first and shall have the burden to show that arbitration should not be terminated. The board shall thereafter issue a final order, finding that further impasse procedures should be either terminated or completed.

660—7.7(20) Impasse procedures for state employees.

7.7(1) General. Rules 7.1(20) to 7.5(20) above shall apply to impasse procedures for state employees only to the extent that they are consistent with this rule 7.6(20). Nothing herein shall be deemed to prohibit the parties, by mutual agreement, from proceeding directly to binding arbitration at any time after impasse.

7.7(2) Independent procedures. *Independent impasse procedures negotiated by the parties* must provide that the impasse will be submitted to binding arbitration, and any hearing thereon concluded no later than February 28, and that any arbitrator's award will be issued on or before March 15.

7.7(3) Statutory procedures. In the absence of independent procedures, the procedures in sections 20.20 to 20.22 and rules 7.1(20) to 7.5(20) shall apply, except that a single party request for mediation must be filed no later than December 14 and the appointment of a fact-finder by the board will be made by December 24, effective the date of hearing, which shall be no later than January 10. A request for binding arbitration must be filed by February 1, and any impasse must be submitted to the arbitrator(s), and hearing concluded no later than February 28.

7.7(4) New certifications. Statutory impasse procedures under these rules shall not be available if the employee organization has been certified later than December 1. This rule does not preclude the parties from negotiating independent impasse procedures if a

Employee organization is certified after December 1 and said procedures will result in an arbitration award on or before March 15.

7.7(5) Negotiability disputes. Disputes concerning the negotiability of any subject of bargaining shall be submitted to the board for determination pursuant to rule 6.3(20) no later than March 1. An arbitration award rendered prior to final determination of the negotiability dispute will be made conditional upon such determination. Notwithstanding the provisions of rule 2.19(20), no stay of impasse procedures will be granted during the pendency of any negotiability dispute, declaratory ruling request, or prohibited practice complaint.

This is intended to implement section 20.17 of the Code.

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CHAPTER 8

INTERNAL CONDUCT OF EMPLOYEE ORGANIZATIONS

660—8.1(20) Registration report.

8.1(1) When filed. Before an employee organization may be certified as the exclusive representative of a bargaining unit, the employee organization shall have filed a registration report with the board.

8.1(2) Form and content. The registration report shall be in a form prescribed by the board. The registration report shall be accompanied by two copies of the employee organization's constitution and bylaws. A filing by a national or international of its constitution and bylaws shall be accepted in lieu of a filing of such documents by each subordinate organization, provided that such national or international constitution and bylaws conform to the requirements of the Act.

660—8.2(20) Annual report.

8.2(1) When filed. Before an employee organization may be certified as the exclusive representative of a bargaining unit, the employee organization shall have filed an annual report with the board. Such reports shall be filed within ninety days of the conclusion of each fiscal year of the employee organization. The first annual report filed by an employee organization may be filed concurrently with an election petition and shall reflect the last completed fiscal year of the organization or, in the case of a new organization, the last completed quarter or quarters of the current fiscal year.

8.2(2) Form and content. The annual report shall be in a form prescribed by the board and shall contain:

- a. The names and addresses of the organization, any parent organization or organizations with which it is affiliated, the principal officers and all representatives.
- b. The name and address of its local agent for service of process.
- c. A general description of the public employees the organization represents or seeks to represent.
- d. The amounts of the initiation fee and monthly dues members must pay.
- e. A pledge, in a form prescribed by the board, that the organization will comply with the laws of the state and that it will accept members without regard to age, race, sex, religion, national origin or physical disability, as provided by law.
- f. A financial report and audit.

660—8.3(20) Bonding requirements. Every person required by section 20.25(3)“c” of the Code to be bonded shall be bonded to provide protection against loss by reason of act of fraud or dishonesty on the part of such person, directly or through connivance with others. The bond of each such person shall be fixed at the beginning of the employee organization's fiscal year and shall be in an amount of not less than ten percent of the funds handled by such person or their predecessor or predecessors, if any, during the preceding fiscal year, but in no case less than two thousand dollars nor more than five hundred thousand dollars. If the employee organization or the trust in which an employee organization is interested does not have a preceding fiscal year, the amount of the bond shall not be less than two thousand dollars. Such bonds shall have a corporate surety company as surety thereon. Any person who is not covered by such bonds shall not be permitted to receive, handle, disburse or otherwise exercise control of the funds or other property of an employee organization or of a

trust in which an employee organization is interested. No such bond shall be placed through an agent or broker or with a surety company in which any employee organization or any officer, agent, shop steward or other representative of an employee organization has any direct or indirect interest.

660—8.4(20) Trusteeships.

8.4(1) Establishment. Trusteeships shall be established or administered by an organization over a subordinate employee organization only in accordance with the constitution and bylaws of the organization which has assumed trusteeship over the subordinate body and for the purpose of correcting corruption or financial malpractice, assuring the performance of collective bargaining agreements or other duties of a bargaining representative, restoring democratic procedures or otherwise carrying out the legitimate objectives of the employee organization.

8.4(2) Reports. Every organization which assumes trusteeship over any subordinate employee organization shall file with the board within thirty days after the imposition of any such trusteeship, and semiannually thereafter, a report, signed by its president and treasurer or corresponding principal officers, as well as by the trustees of such subordinate employee organization, containing the following information:

- a. The name and address of the subordinate employee organization;
- b. The date of the establishment of the trusteeship;
- c. A detailed statement of the reason for the establishment or the continuation of the trusteeship; and

d. The nature and extent of participation by the membership of the subordinate employee organization in the selection of delegates to represent such employee organization in regular or special conventions or other policy-determining bodies and in the election of officers of the organization which has assumed trusteeship over the employee organization.

The initial report of the establishment of the trusteeship shall include a full and complete account of the financial condition of the subordinate employee organization as of the time trusteeship was assumed over it.

8.4(3) Continuing duty to report. During the continuance of a trusteeship, the organization which has assumed trusteeship over a subordinate employee organization shall file on behalf of the subordinate employee organization all reports required by this chapter. Such reports shall be signed by the president and treasurer or corresponding principal officers of the organization which has assumed such trusteeship and the trustees of the subordinate employee organization.

660—8.5(20) Reports as public information.

8.5(1) Use by the board. The contents of the reports required by this chapter shall be public information, and the board may publish any information and data which it obtains from such reports.

8.5(2) Available to the public. The board shall make reasonable provisions for inspection and examination, at the request of any person, of any report required to be filed with the board by this chapter.

These rules are intended to implement chapter 20 of the Code.

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CHAPTER 9 ADMINISTRATIVE REMEDIES

660—9.1(20) Final decisions. When a quorum of the members of the board presides at initial hearing on any matter, the decision entered thereon is a final decision of the agency. When the hearing is presided over by other than a quorum of the members of the board, the hearing officer shall render a proposed decision, which shall become the final decision of the agency unless within twenty days of the filing of such decision:

9.1(1) Any party aggrieved by such decision files a written notice of appeal with the director, or

9.1(2) The board, on its own motion, determines to review the decision.

660—9.2(20) Appeals to board.

9.2(1) *Grounds for appeal.* Any proposed decision of a hearing officer may be modified, reversed or set aside by the board on one or more of the following grounds:

- a. That the hearing officer acted without or in excess of his powers;
- b. That the proposed decision was procured by fraud or is contrary to law;
- c. That the facts found by the hearing officer do not support the proposed decision;
- d. That the proposed decision is not supported by a preponderance of the competent evidence on the record considered as a whole;
- e. That the conduct of the hearing or any ruling made therein has resulted in prejudicial error;
- f. That a substantial question of law or policy is raised because of the absence of or departure from officially reported board precedent;
- g. That there are compelling reasons for reconsideration of an important board rule or policy.

9.2(2) *Notice of appeal.* The notice of appeal shall be in writing, addressed to the director, and shall set forth the specific grounds for appeal. The appealing party shall deliver a copy thereof to opposing parties by ordinary mail.

9.2(3) *Hearing.* The board may hear the case de novo or upon the record as submitted before the hearing officer. Any person, employee, organization or public employer who has a significant interest in the outcome of the appeal may petition the board for intervention in the appeal proceedings. Where intervention is granted by the board, the intervening parties may submit briefs and arguments and participate in the same manner as an original party to the proceeding. The director shall set a time and place of hearing or argument and give notice thereof to the parties. The decision rendered by the board shall be a final decision of the agency.

9.2(4) *Transcripts of record.* Testimony in all hearings before the board shall be taken by a shorthand reporter appointed by the board. Shorthand notes shall be transcribed only on direction of the board, and the board does not furnish copies of the transcriptions. Any party desiring copies, however, may request same from the reporter at a rate not exceeding the legal rate. A party appealing a decision of a hearing officer to the board shall be responsible for filing a transcript of the proceedings with the board and arranging payment therefor. The costs of such transcription shall be certified to the board, which shall tax such costs to the case on appeal. In rendering its decision on the appeal, the board shall assess the costs against the parties as it deems appropriate.

9.3(20) Rescinded, effective December 21, 1977.

These rules are intended to implement chapter 20 of the Code.

[Filed March 4, 1975]

[Filed 10/26/77, Notice 9/21/77—published 11/16/77, effective 12/21/77]

[Filed 9/11/79, Notice 7/11/79—published 10/3/79, effective 11/12/79]

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that a fire cannot penetrate into the existing building through the ceilings, floors or walls. Should such complete separation occur, the existing building is not required to be equipped with a system.

5.230(5) Systems required. Systems are required in high-rise buildings due to the extreme difficulty of fighting a fire at high levels. Such difficulty occurs because of the limited reach of present fire fighting equipment.

a. Present fire fighting equipment can be adequately used up to a height of sixty-five feet above the equipment.

Therefore, the general assembly has ordered that a building above this height shall have a system.

b. The words "four stories in height or sixty-five feet above grade" shall mean sixty-five feet above the lowest point, at the base of the building, a fire department may be required to fight a fire in the building and can, at such point, adequately use its equipment.

c. The fire marshal will consider a request to exempt a building being planned from being required to have a system because it will not exceed such height. The fire marshal will consider the opinion of the chief of the fire department having jurisdiction that the fire department would at no time have to fight a fire in the building more than sixty-five feet above that fire department's fire fighting equipment.

5.230(6) Appeals. Appeals of the fire marshal's decisions shall be governed by the procedures of chapter 10 rules of the public safety department.

[Filed June 22, 1976, Notice 5/17/76—published 7/12/76, effective 8/16/76]

5.231 to 5.249 Reserved.

LIQUEFIED PETROLEUM GASES

680—5.250(101) Rules generally. The standards of "Storage and Handling of Liquefied Petroleum Gas", No. 58, 1969 edition of the National Fire Protection Association and "Installation of Gas Appliances, Gas Piping", No. 54, 1969 edition of the National Fire Protection Association together with their references to other specific pamphlets referred to and contained within the volumes of the National Fire Code, 1969-70 edition of the National Fire Protection Association published in 1969, shall be the rules governing liquefied petroleum gases in the state of Iowa.

680—5.251(101) Transfer into container. No person shall transfer any liquefied petroleum gas into a container, regardless of size, if the container has previously been used for the storage of any other product until the container has been thoroughly purged, inspected for contamination, provided with proper valves, and determined to be suitable for use as a container for liquefied petroleum gas as prescribed in the standards established under 5.250(101).

5.252 to 5.274 Reserved.

[Filed August 21, 1957; amended January 15, 1960, June 22, 1962, August 19, 1970]

LIQUEFIED NATURAL GAS

680—5.275(101) Rules generally. The standard of "Liquefied Natural Gas" (LNG) #59A, 1975 edition of the National Fire Protection Association together with its reference to other specific standards referred to and contained within the volumes of the National Fire Code 1976 edition of the National Fire Protection Association published in 1976 shall be the rules governing liquefied natural gas in the state of Iowa.

This rule is intended to implement an Act of the Sixty-eighth General Assembly, Chapter 37.

5.276 to 5.299 Reserved.

[Filed 9/7/79, Notice 7/25/79—published 10/3/79, effective 11/8/79]

FLAMMABLE AND COMBUSTIBLE LIQUIDS CODE

680—5.300(101) Rules generally. The standard of "Flammable and Combustible Liquids Code, No. 30, 1977 edition of the National Fire Protection Association with the exception of the following sections: 2-2.7.1, 7-7.1, 7-7.3.3, and the following words "without a latch-open device" in sections 7-7.3.2; 7-7.4.8, together with its reference to other specific standards referred to and contained within the volumes of the National Fire Code, 1978, edition of the National Fire Protection Association published in 1972, and as provided in the following sections, shall be the rules governing flammable and combustible liquids in the state of Iowa.

680—5.301(101) Storage, and handling and use—plans approved.

5.301(1) Before any construction or new or additional installation for the storage, handling or use of flammable or combustible liquids is undertaken in bulk plants, service stations and processing plants, drawings or blueprints thereof made to scale shall be submitted to the state fire marshal with an application, all in duplicate, for his approval. Within a reasonable time after receipt of the application with drawings or blueprints, the state fire marshal will cause the same to be examined and if he finds that they conform to the applicable requirements of this chapter as written or as modified, shall forthwith signify his approval of the application either by endorsement thereon or by attachment thereto, retain one copy for his files and return to the applicant the other copy plus any additional copies submitted by the applicant. If the drawings or blueprints do not conform to the applicable requirements of this chapter as written or modified as aforesaid, he shall within the time aforesaid notify the applicant accordingly.

5.301(2) If proposed construction or installation is to be located within a local jurisdiction which requires that a local permit be first obtained, the drawings or blueprints shall be submitted to the appropriate local official or body with the application for permit and then except in case of dispute need not be submitted to the state fire marshal. The local official or body, as a condition to the issuance of the permit, shall require compliance with the applicable requirements of this chapter as written or as modified. In the event of dispute as to whether the drawings or blueprints show conformity with the applicable requirements of this chapter as aforesaid the plans and drawings shall forthwith be submitted to the state fire marshal whose decision in the matter shall be controlling.

5.301(3) Drawings shall show the name of the person, firm or corporation proposing the installation, the location thereof and the adjacent streets or highways.

5.301(4) In the case of bulk plants the drawings shall show, in addition to any applicable features required under 5.301(6) and 5.301(7) of this rule, the plot of ground to be utilized and its immediate surroundings on all sides; complete layout of buildings, tanks, loading and unloading docks; heating devices therefor, if any.

5.301(5) In the case of service stations, the drawings, in addition to any applicable features required under 5.301(6) and 5.301(7) of this rule, shall show the plot of ground to be utilized; the complete layout of buildings, drives, dispensing equipment, greasing or washing stalls and the type and location of any heating device.

5.301(6) In the case of aboveground storage the drawing shall show the location and capacity of each tank; dimensions of each tank the capacity of which exceeds fifty thousand gallons; the class of liquid to be stored in each tank; the type of tank supports; the clearances as covered in NFPA Pamphlet No. 30, 1977 edition; the type of venting and pressure relief relied upon and the combined capacity of all venting and pressure relief valves on each tank, as covered in NFPA Pamphlet No. 30, 1977 edition; the tank control valves as covered in Pamphlet No. 30, 1977 edition; and the location of the pumps and other facilities by which liquid is filled into and withdrawn from the tanks.

5.301(7) In the case of underground storage, the drawings shall show the location and capacity of each tank, class of liquids to be stored therein, together with the clearances and requirements covered in NFPA Pamphlet No. 30, 1977 edition; and the location of fill gauge and vent pipes and openings as covered in NFPA Pamphlet No. 30, 1977 edition.

5.301(8) In the case of an installation for storage, handling or use of flammable or combustible liquids within buildings, or enclosures at any establishment or occupancy covered in this chapter, the drawings shall be in such detail as will show whether applicable requirements are to be met.

680-5.302(101) Tank valves.

5.302(1) *External valves.* Each connection to an above ground tank storing flammable or combustible liquids located below normal liquid level, shall be provided with an external control valve located as close as practicable to the shell of the tank. Except for flammable liquids whose chemical characteristics are incompatible with steel, such valves and their tank connections installed after effective date of these regulations shall be of steel.

5.302(2) *Emergency internal check valves.* In addition to any normal valves on aboveground tanks, there must be an extra valve at each pipe line connection to any tank below normal liquid level, which valve is effective inside the tank shell is operated both manually and by an effective heat actuated device which, in case of fire, will automatically close the valve to prevent the flow of liquid from the tank even though the pipe lines are broken from the tank. These extra valves are not required in crude oil tanks in oil fields, on tanks at refineries, or on tanks at terminals which are equipped with a swing line or where facilities are provided to transfer the contents of the tank to another tank in case of fire.

680—5.303(101) Bulk plants. Property shall be kept free from weeds, high grass, rubbish and litter, and shall be kept neat, clean and orderly throughout.

680—5.304(101) Service stations—buildings.**5.304(1) Basements.**

a. No basement or excavation shall hereafter be constructed under any service station building. Steps shall be taken to eliminate existing basements upon the occasion of any major remodeling of a service station. This restriction shall not apply to garages.

b. Floor shall preferably be of concrete or other fire resisting materials, in all buildings constructed after the effective date of these regulations.

5.304(2) Service pits.

a. Except as otherwise provided in 5.304(2), "c", no service station or filling station shall be constructed or remodeled after the effective date of these regulations in such a manner as to include a service pit.

b. Service pits existing as of the following date of these regulations shall comply with the following:

(1) No sewer connection shall be permitted from any pit, unless protected with an approved grease trap which will effectively intercept greases and oils, and prevent their entry into the sewer.

(2) If service pits are electrically lighted, lights and switches shall be of explosion-proof construction and wiring in conduit.

c. In an establishment where greasing or other services are to be regularly rendered to vehicles of such type, size or weight or for other good reason, it would be impracticable to utilize ramp or hoist type equipment for these services, a pit may be installed but only after written approval from the state fire marshal upon application in writing accompanied by plans and specifications for the proposed installation. Every such approval shall be on the condition that the proposed installation be constructed and maintained in conformity with the following requirements.

(1) Each pit must be constructed of poured concrete.

(2) All electrical wiring and electric equipment in each pit or used in connection therewith must be explosion-proof and all such equipment shall bear the Underwriters Laboratories or Factory Mutual label.

(3) Each pit must be equipped with a mechanical exhaust system capable of exhausting five cubic feet of air per minute per square foot of floor area within the pit and shall have a capacity of not less than one thousand four hundred cubic feet per minute. The exhaust system shall be wired electrically so that the system will be in full operation when pit lights are lighted.

(4) The discharge from the exhaust system shall be to the outside atmosphere and located in such a manner that the exhaust air will not re-enter the building.

(5) No sewer connection shall be permitted from any pit, unless protected with an approved grease trap which will effectively intercept greases and oils, and prevent their entry into the sewer.

5.304(3) Automatic nozzle definition. A listed automatic closing type hose nozzle valve with latch-open device may be used if the design of the system is such that the hose nozzle valve will close automatically in the event the valve is released from a fill opening or upon impact with a driveway.

5.304(4) Marine dispensing nozzles used at marine service stations shall be of the automatic-closing type.

680—5.305(101) All self-service motor fuel dispensing stations.**5.305(1) Self-service locations.**

a. Public self-service stations dispensing Class I liquids shall have an attendant on duty within 60 feet of the dispensing units, measured from the attendant's main access door.

b. Private locations. Dispensing of liquids at private locations, where the dispensing equipment is not open to the public, does not require an attendant or supervisor. Such private locations may include card or key controlled dispensers.

c. No dwelling unit or sleeping facilities for the attendant shall be maintained in or on the premises of any self-service station closer than 100 feet from Class I or 50 feet from Class II flammable liquid dispensing devices.

5.305(2) Automatic extinguishing.

a. At all self-service stations dispensing Class I liquids, a fixed automatic fire extinguishing system shall be installed which complies with the provisions of NFPA Standard 17, Dry Chemical System 1975 edition, which system shall utilize the multipurpose dry chemicals monoammonium phosphate ($\text{NH}_4\text{H}_2\text{PO}_4$) or the equivalent, and be capable of covering the entire Class I liquid dispensing area. Said system shall be capable of being activated manually; however, if said system is to be activated manually, the activating device shall be capable of being activated from a location outside the extinguishing area.

b. Commercial, industrial, governmental, or manufacturing establishments are exempt from 5.305(2)“a” when fueling their equipment by their employees on their property.

c. Existing self-service locations without automatic extinguishing systems, subject to the authority having jurisdiction, in operation at the effective date may use Section 1-1.6, NFPA No.30, 1977 edition. Any existing flammable liquid installation dispensing Class I flammable liquids, converting to self-service after the effective date of this rule, shall meet the automatic extinguishing requirements.

5.305(3) Dispensing by gravity. The dispensing of flammable or combustible liquids from aboveground tanks into the fuel tanks of motor driven vehicles shall not be permitted in cities or towns except in conformity with Section 7-7.3.5 NFPA No. 30, 1977 edition, or the “Iowa Standards for the Storage of Flammable and Combustible Liquids on Farms and Isolated Construction Projects.” Anyone filling an installation which violates this rule shall also be deemed in violation.

680—5.306(101) Safety.

5.306(1) Premises shall be kept neat and clean, and free from oil and grease, rubbish, or trash. Only approved water solutions, or detergents, floor sweeping compounds and grease absorbents shall be used for cleaning floors.

5.306(2) Cleaning of parts, in, or around, the service station shall be done with nonflammable solvent except that a flammable solvent with a flash point above 100° F. may be used for the purpose provided adequate ventilation is supplied and no sources of ignition are present in the cleaning area.

5.307 to 5.349 Reserved.

[Filed 10/8/57; amended 1/15/60, 8/31/71, 11/24/71, 12/13/72]

[Filed 9/7/79, Notice 7/25/79—published 10/3/79, effective 11/8/79]

OIL BURNING EQUIPMENT

680—5.350(101) Rules generally. “The Standard for the Installation of Oil Burning Equipment” No. 31, 1978 edition of the National Fire Protection Association together with its reference to other specific standards referred to and contained within the volumes of the National Fire Code 1979 edition of the National Fire Protection Association published in 1979 shall be the rules governing oil burners in the state of Iowa.

5.351 to 5.399 Reserved.

[Filed 1/15/60; amended 12/13/72]

[Filed 9/7/79, Notice 7/25/79—published 10/3/79, effective 11/8/79]

STORAGE OF FLAMMABLE AND COMBUSTIBLE LIQUIDS ON FARMS AND
ISOLATED CONSTRUCTION PROJECTS

680—5.400(101) Rules generally. “The Standard for the Storage of Flammable and Combustible Liquids on Farms and Isolated Building Projects” No. 395, 1977 edition of the National Fire Protection Association together with its reference to other specific standards referred to and contained within the volumes of the National Fire Code 1978 edition of the National Fire Protection Association published in 1978 shall be the rule for “Storage of Flammable and Combustible Liquids on Farms and Isolated Building Projects”.

5.401 to 5.499 Reserved.

[Filed 1/15/60; amended 8/31/71, 12/13/72]

[Filed 9/7/79, Notice 7/25/79—published 10/3/79, effective 11/8/79]

TRANSPORTATION AND DELIVERY OF FLAMMABLE AND COMBUSTIBLE LIQUIDS
BY TANK VEHICLES

680—5.450(101) Rules generally. The “Recommended Regulatory Standard for Tank Vehicles for Flammable and Combustible Liquids” No. 385, 1974 edition of the National Fire Protection Association with the exception of the following sections: 5050 and 2231 a, together with its reference to other specific standards referred to and contained within the volumes of the National Fire Code 1975 edition of the National Fire Protection Association published in 1975 shall be the rules governing the transportation of flammable and combustible liquids in tank vehicles in the state of Iowa.

680—5.451(101) Operation of tank vehicles. Class II or Class III liquids shall not be loaded into an adjacent compartment to Class I liquids unless double bulkheads are provided, nor shall chemically noncompatible chemicals be loaded into adjacent compartments unless separated by double bulkheads. Tank vehicles without double bulkheads constructed and in use prior to December 13, 1972, shall be permitted to continue to be used, but new construction is not permitted.

680—5.452(101) Emergency discharge control. The outlets of each cargo tank or compartment used for transportation of Class I liquids and trucks constructed hereafter for transportation of Class II and Class III liquids having a viscosity less than 45 Saybolt Universal Seconds at 100° F., shall be equipped with a reliable and efficient shut-off valve located inside the shell; or in the sump when it is an integral part of the shell; and designed so that the valve must be kept closed except during loading and unloading operations. “However, tank vehicles constructed and in use prior to December 13, 1972, that have no compartment that has a capacity of more than five hundred gallons shall not be subject to these provisions.”

NOTE: The forty-five-second viscosity limit is included for the purposes of requiring internal valves when transporting free-flowing distillate oils, such as kerosene, diesel oil and domestic heating oil, and of excluding this requirement when transporting viscous oils such as residual fuel oil, bunker fuel oil and asphalt products which may congeal and cause malfunctioning of the valve.

These rules are intended to implement chapter 101 of the Code.

5.453 to 5.499 Reserved.

[Filed 1/15/60; amended 8/31/71, 12/13/72]

[Filed 9/7/79, Notice 7/25/79—published 10/3/79, effective 11/8/79]

CHILD CARE CENTERS

680—5.500(100) Definitions.

5.500(1) *"Approved"* is defined as being acceptable to the state fire marshal.

5.500(2) *"Approved equipment and material"* shall mean any equipment or material tested and listed by a nationally recognized testing laboratory.

5.500(3) *"Approved standards"* shall mean any standard or code prepared and adopted by a nationally recognized association.

5.500(4) *"Attic"* when used in these standards, shall mean the space between the ceiling beams of the top habitable story and the roof rafters.

5.500(5) *"Automatic"* as applied to a door, window or other protection for an opening shall mean that such door, window or other protection is so constructed and arranged that if open it will close when subjected to a predetermined temperature or rate of temperature rise.

5.500(6) *"Automatic sprinkler system"* shall mean an arrangement of piping and sprinkler designated to operate automatically by the heat of fire and to discharge water upon the fire, according to the standards of the National Fire Protection Association.

5.500(7) *"Basement"* or cellar for these regulations shall mean that part of a building where the finish floor is more than thirty inches below the finish grade at the building.

5.500(8) *"Child occupied areas"* used in this regulation for purposes of area separation, means of egress and use, as that area used for sleeping, dining, activity and educational purposes and other areas subject to occupancy by children.

5.500(9) *"Combustible"* shall mean capable of undergoing combustion.

5.500(10) *"Combustible or hazardous storage area of room"* shall mean those areas containing heating apparatus and boiler rooms, basements or attics used for the storage of combustible material, flammable liquids, workrooms such as kitchen, laundry, handicraft shops, carpenter shops, paint shops, and upholstery shops, central storerooms such as furniture, mattresses and miscellaneous storage, and similar occupancies intended to contain combustible material which will either be easily ignited, burn with an intense flame or result in the production of dense smoke and fumes.

5.500(11) *"Exit"* is that portion of a means of egress which is separated from all other spaces of the building or structure by construction or equipment as required in these regulations to provide a protected way of travel to the exit discharge.

5.500(12) *"Exit access"* is that portion of a means of egress which leads to an entrance to an exit.

5.500(13) *"Existing center"* is that which is already in existence at the date these rules go into effect.

5.500(14) *"Exit discharge"* is that portion of a means of egress between the termination of an exit and a public way.

5.500(15) *"Fire door"* shall mean a door and its assembly, so constructed and assembled in place as to give protection against the passage of fire, equal to surrounding construction.

5.500(16) *"Fire extinguisher rating"* shall be as stated in National Fire Protection Association pamphlet No. 10.

5.500(17) *"Fire marshal"* means the state fire marshal, any of his/her staff, "assistant state fire inspectors", carrying authorized cards signed by the state fire marshal.

5.500(18) *"Fire partition"* shall mean a partition which subdivides a story of a building to provide an area of refuge or to restrict the spread of fire for a minimum of one hour.

5.500(19) *"Fire resistive"* shall mean that property of materials or assemblies which prevents or retards the passage of excessive heat, hot gases or flames under condition of use. The term "fire resistive" shall mean the same as "fire resistance."

5.500(20) *"Fire-resistance rating"* shall mean the time in hours or fractions thereof that materials of their assemblies will resist fire exposure as determined by fire tests conducted in compliance with approved standards.

5.500(21) *"Fire wall"* shall mean a wall of brick or reinforced concrete having adequate fire resistance and structural stability under fire conditions to accomplish the purpose of

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2.36(4) Definitions. As used herein, the following words shall mean:

a. "University" means the University of Northern Iowa or the appropriate university administrator to whom any particular duty or function prescribed herein is delegated.

b. "Parietal rule" means the condition of registration at the university established by these rules.

c. "Freshman" student means any undergraduate student registered for nine or more semester hours who has not previously earned thirty-one or more semester hours of credit toward a baccalaureate degree at the university.

d. "Sophomore" student means any undergraduate student registered for nine or more semester hours who has earned at least thirty-two and not more than sixty-three semester hours of credit toward a baccalaureate degree at the university.

2.36(5) Temporary suspension. The parietal rule for sophomores will be suspended on an experimental basis for a period of two years commencing with the academic year 1979-80. The present parietal rule shall automatically be reinstated for sophomores at the close of the two-year suspension unless the board takes action to extend the period of suspension.

This rule is intended to implement section 262.9(11) of the Code.

720—2.37(262) Teaching curricula. Application for approval in a teacher education program may be filed after a student has earned at least twenty-four semester hours credit. The student must pass such tests and meet such other standards as may be prescribed by a teacher education committee. For full approval, a student must have at least a 2.20 grade index at this college. The committee may grant provisional approval for students in exceptional cases, but may not grant full approval until all standards have been met. Normally a student will be expected to meet full approval by the beginning of the junior year if he wishes to complete requirements in the minimum time. Transfer students cannot earn full approval before the end of the first semester enrolled at University of Northern Iowa.

A student may, at the time of admission to the college, declare an intent to enter a teaching program and be assigned a teacher adviser from his first enrollment. The college must give special consideration to scholarship, health, character, personality, and quality of potential leadership of an applicant for a teaching curriculum. [Amendment filed and indexed November 21, 1961]

720—2.38(262) Admission requirements for graduate students. A graduate of a college or university accredited by the National Council for the Accrediting of Teacher Education or by the North Central Association of Colleges and Secondary Schools or a corresponding regional agency will be granted admission to graduate study if his application for admission has been approved by the registrar.

A graduate of a college or university that is not accredited may be granted conditional admission at the discretion of the registrar. Admission to graduate study does not guarantee admission to candidacy for an advanced degree.

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[See also additional historical references throughout chapter 2]

THE UNITED STATES OF AMERICA
DO hereby certify that
[Name] is a citizen of the United States of America
and is entitled to the rights and privileges of citizenship
under the Constitution and laws of the United States.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the United States of America at the City of New York, this [Date] day of [Month], 19[Year].

JOHN D. [Name]
[Title]

THE UNITED STATES OF AMERICA
DO hereby certify that
[Name] is a citizen of the United States of America
and is entitled to the rights and privileges of citizenship
under the Constitution and laws of the United States.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the United States of America at the City of New York, this [Date] day of [Month], 19[Year].

JOHN D. [Name]
[Title]

THE UNITED STATES OF AMERICA
DO hereby certify that
[Name] is a citizen of the United States of America
and is entitled to the rights and privileges of citizenship
under the Constitution and laws of the United States.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the United States of America at the City of New York, this [Date] day of [Month], 19[Year].

JOHN D. [Name]
[Title]

CHAPTER 3
PERSONNEL ADMINISTRATION
ORGANIZATION AND ADMINISTRATION

720—3.1(19A) Creation and purpose. The purpose of these rules is to give effect to the provisions of chapter 19A of the Code to establish an efficient, effective and uniform system of personnel administration for board of regents institutions and staff, to provide equal employment opportunity for all and career opportunities comparable to those in business and industry.

720—3.2(19A) Covered employees. All employees of the board of regents, except those exempted by the state merit employment Act, will be covered under the rules of this system. Employees hired into permanent positions one year or more prior to the date of implementation of these rules will be given permanent status and full rights hereunder. Employees hired less than one year prior to the date of implementation of these rules will

be required to complete a probationary period in accordance with 3.90(19A). Service immediately prior to the date these rules are implemented will count as probationary time.

720—3.3(19A) Administration. Under authority of the board of regents and the supervision of its executive secretary, a merit system director will be appointed who will be responsible for the development, operation and evaluation of the system in compliance with the objectives and intent of the state merit employment Act and regents merit rules. At each board of regents institution the head thereof will designate an administrator to serve as resident director of the system. The resident director will be responsible through the chief executive at the institution for conducting a program of personnel administration in accordance with these rules. The merit system director shall review the operation of the merit system at each of the institutions and will be responsible for the direction of the merit system and have the authority to insure the uniform administration of the merit system under provision of these rules.

3.3(1) Records and reports. The resident directors will maintain an individual file on each employee that will include a record of all personnel transactions affecting that individual. The resident directors will also maintain records on operations conducted under these rules and will periodically as requested, and at least annually, report a summary of such operations to the merit system director, and in addition will prepare other reports as may be required by the merit system director to indicate compliance with applicable regents and state requirements and federal standards. The resident director will establish, in co-operation with employing departments, a program that will provide for the regular evaluation, at least annually, of the qualifications and performance of all employees.

3.3(2)* Nondiscrimination. All programs and transactions administered under these rules will be conducted on the basis of merit and fitness without discrimination or favor because of political or religious opinions or affiliations or national origin, race, sex, disability or age except as prescribed or permitted under state and federal law.

3.3(3) Political activity. No employee covered under this system will engage in any partisan political activity that is prohibited by law; every employee will have the right to freely express his or her views as a citizen and to cast his or her vote; coercion of employees for political purposes and the use of employees' positions for political purposes will be prohibited.

Those employees who are by law subject to the provisions of the federal Hatch Act will be informed of such provisions by the resident director at their institution and will be required to adhere thereto.

3.3(4) Revisions and additions. In accordance with the provisions of chapter 19A, these rules may be revised at any time. In addition, supplementary rules subject to chapter 17A of the Code, not inconsistent with these rules may be made applicable to any department, program or service, whenever such additional merit system provisions are required as a condition of eligibility for federal funds.

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720—3.4 to 3.13 Reserved.

DEFINITIONS

720—3.14(19A) Definitions.

3.14(1) "Certification" is the determination, in accordance with the rules, by the resident director of the people from which an employing department may select to fill a vacancy.

3.14(2) "Class" or "class of position" means one or more positions, which are sufficiently similar in duties and responsibilities, that each position in the group can be given the same job title, require the same minimum qualifications as to education and experience, can be filled by substantially the same test of ability or fitness, and that the same schedule of pay can be applied with equity to all positions in the class under the same or substantially the same employment conditions.

*Emergency pursuant to §17A.5(2)"b"(1), (2) of the Code.

rules. Changes in classification will not be used to avoid other provisions of these rules relating to layoffs, promotions, demotions and dismissal.

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720—3.27 to 3.36 Reserved.

COMPENSATION PLAN

720—3.37(19A)* Preparation, content and adoption of the pay plan. The board of regents will adopt a pay plan for all the classes established in the classification plan. The pay plan will consist of a schedule or schedules of numbered grades with minimum, maximum and intermediate steps for each grade. Each class will be assigned to a pay grade. The plan will be developed to reflect the relative difficulty and responsibility of the work involved in the various classes, what is paid for similar work by other employers in the pertinent labor market, and the availability of funds with due regard to the results of a collective bargaining agreement negotiated under the provisions of chapter 20 of the Code. The plan will be uniformly applicable to all regents institutions except for variances approved on the basis of geographical differences. Prior to final approval by the board of regents, the plan will be the subject of a public hearing conducted after reasonable and adequate notice at each board of regents institution. After approval by the board of regents the plan will be submitted for approval to such other authority as required by law.

720—3.38(19A) Review and revision of the pay plan. At least once each year the complete pay plan will be reviewed for revision by the board of regents in the same manner and following the same procedure stated in 3.37(19A). At any time new classes may be established and other revisions may be made in the plan to reflect proper relationships and to facilitate recruitment and retention. Such changes will be effective after approval by the board of regents and other authority as required by law.

720—3.39(19A) Administration of the pay plan. Within the provisions of these rules, the pay plan will be uniformly administered by the resident directors under the direction of the merit system director for all classes in the system. Except as otherwise provided in these rules and in the pay plan, all employees will be paid at one of the steps of the pay grade to which the employee's class is assigned and such pay will constitute the total cash remuneration the employee receives for his or her work in that position. Perquisites such as subsistence and maintenance allowances will be considered a part of pay and the value of such will be deducted from an employee's rate of pay.

3.39(1) Entrance salaries. The entrance salary for an employee in any position under this system will be the minimum salary of the pay grade to which that class of position is assigned or in accordance with the approved pay plan, except as provided for the following:

a. Appointment based on a scarcity of qualified applicants. At the request of an institution and on the basis of economic or employment conditions which make it difficult or impossible to recruit at the minimum rate of the pay grade to which a class of position is assigned, a resident director, subject to approval by the merit system director, may authorize for a designated period of time recruitment for that class at a rate higher than the minimum. Where such a higher entrance rate is authorized all employees in the same class and in the same geographical area, who are earning less than the higher entrance rate, will be increased to that higher rate.

b. Appointment based on exceptional qualifications. Employees whose qualifications substantially exceed the minimum required for the class, or who possess outstanding experience relative to the demands of the position, may at the request of an employing department, be appointed at a rate higher than the minimum, provided that the pay of all other employees with similar qualifications working under the same conditions at the same institution are raised to that higher rate. Such appointments must be approved by the resident director and reported to

*Emergency, pursuant to section 17A.5(2)"b"(1) of the Code.

the merit system director. Such appointments which necessitate the adjustment of the salaries of employees other than the appointee will, in addition, require prior approval of the merit system director.

c. Appointments based on prior service at the institution.* Employees who were employed by an appointing institution in a nonmerit system position and who performed duties of the same character and responsibility as the merit class to which they are being appointed may be paid at a rate higher than the minimum reflecting prior service in a comparable position. Such appointments must be approved by the resident director and reported to the merit system director.

3.39(2)* Merit increases. Permanent and probationary employees on Step 1 or Step 2 in a pay grade will be eligible for a two-step merit increase upon completion of six months of satisfactory performance in their assigned classification at the same step. Permanent and probationary employees on Step 3 or above in a pay grade will be eligible for a two-step merit increase upon completion of one year of satisfactory performance in their assigned classification at the same step except that no merit increase will be granted above the last step in the pay grade. The period of satisfactory performance will be measured from the last merit review date if such a date has been established. Merit increases in pay will not be made retroactively, but may be denied or deferred by the employing department on the basis of work performance. An employee whose merit increase is denied or deferred will, prior to the scheduled effective date of increase, be informed of such action by a written statement from his or her employing department which specifies the reason for the denial or deferral. Denials or deferrals of a merit increase for six months or less for reason of unsatisfactory work performance will not result in the establishment of a revised merit review date. Deferrals resulting from leaves of absence without pay, layoff, or medically-related disability leave exceeding thirty calendar days will cause a change of the merit review date equal to the time away from work. An extra meritorious increase of two steps in the pay range may be approved by the resident director for exceptional service, on written request from a department head and with the approval of the chief executive of the institution. No employee will be given more than one such increase in any twelve-month period, nor will an employee who has served in his or her position less than three months receive an extra meritorious increase. Extra meritorious increases will be reported to the merit system director who will periodically submit a report thereon for review by the board of regents.

3.39(3)* Pay on promotion. An employee who is promoted will be moved to the minimum rate of the new grade, or to the next higher rate on the new grade which provides an adjustment that is the salary equivalent of not less than two steps higher than the employee's present base pay. In no event will the adjustment result in pay above the maximum of the new grade.

If the promotion involves movement to a new grade that is three or more grades higher than the employee's present grade, the resident director may approve, on written request from the employing department, an increase that is no greater than four steps higher than the employee's present base pay.

For the purpose of calculating the promotional increase, any extra pay such as shift differential pay, pay for special assignment, on-call pay, pay for overtime or pay for call back shall be excluded as part of the employee's present base pay. The merit review date will be computed from the effective date of promotion and in accordance with 3.39(2). Pay on promotion in accordance with the provisions of subrule 3.39(1) paragraph "b" may be authorized by a resident director with the approval of the merit system director.

3.39(4) Pay on demotion. Upon recommendation by the department head, and with the prior approval of the resident director, the pay of an employee who is demoted will be set at any step within the new pay grade that does not exceed the rate at which the employee was paid in the position from which the employee was demoted. Merit review date will not change.

3.39(5) Pay on reinstatement, re-employment or return from leave. An employee who is reinstated to the previously occupied class will be paid at a rate no less than what the employee was last paid and no higher than that provided at the step of the pay grade at

*Emergency, pursuant to §17A.5(2)"b"(2) of the Code.

employee whose position is reclassified to the class of position previously held by the employee where the position being reclassified was accepted as a voluntary demotion in lieu of layoff, and will be considered re-employment provided the reclassification occurs within the re-employment period established for the employee.

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720—3.40 to 3.49 Reserved.

APPLICATION AND EXAMINATION

720—3.50(19A) Applications. Applications for admission to examination for employment will contain no question so formed as to elicit any information concerning national origin, race, sex, or political or religious affiliation, and the truth of statements made on the application will be certified by the signature of the applicant.

720—3.51(19A) Examinations. Entrance to the service will be conducted on an open competitive basis. Examinations must be approved by the merit system director. Examinations may, at the designation of the resident director, be conducted on a continuous basis, or they may be offered periodically as need or anticipated need for employees arises. Examinations will be practical in nature, constructed to reveal the capacity to successfully perform the job for which the applicant is competing, and will be rated objectively. They will be structured for necessary minimum levels of competence.

720—3.52(19A) Character of examinations. Examinations may be assembled or unassembled and may include written, oral, physical, or performance tests, or any combination of these. They may take into consideration such factors as education, experience, aptitude, knowledge, character, physical fitness, or other qualifications or attributes which enter into the determination of the relative fitness of applicants.

3.52(1) Assembled examinations. Assembled examinations will be conducted for those classes for which written tests are practical. Such examinations may include one or more of the following in addition to the written tests: Skill demonstration tests, physical tests, oral interviews and evaluations of training and experience.

3.52(2) Unassembled examinations. For those classes of a craft nature or where peculiar and exceptional qualifications are required and competition through an assembled examination is impractical, an unassembled examination may be held. Such examinations will consist of an evaluation of a statement of training and experience and such other materials as the applicants may be required to submit as evidence of fitness for a position, and may include oral interviews for evaluation of personal and technical qualifications and evaluations of other factors which enter into the determination of the relative fitness of applicants.

3.52(3) Simplified examination procedure. For positions involving unskilled work, where the character or conditions of employment make it impractical to supply the needs of the institution through procedures prescribed above, the merit system director may authorize the use of such other procedures as he or she determines to be appropriate which will assure the selection of such employees on the basis of merit and fitness. Examinations

so given will conform with and utilize such methods, forms and techniques as the director may require.

3.52(4)* *Special examination procedure for handicapped applicants.* When the merit system director determines that an examination procedure has the effect of screening out an otherwise qualified handicapped person on the basis of his or her handicap, the merit system director may authorize the use of a modified procedure which will appropriately measure the applicant's ability to perform the job.

720—3.53(19A) *Announcement of examinations.* Announcement of examinations will be made publicly and will include the title, the current salary range and the minimum qualifications for the class; the date, time and place where the examination will be offered; and the manner in which applications for examination can be made. Announcements of examinations will, in addition to other publication or distribution prescribed by the resident director, be displayed in the institution's employment office and distributed to all the state employment offices of the Iowa employment security commission.

3.53(1) *Continuous examinations.* Announcement of examinations that are conducted on a continuous basis will be made at least once every six months, and will include a statement to the effect that applications will be accepted until further notice.

3.53(2) *Noncontinuous examinations.* Announcements of examinations not conducted on a continuous basis will include a statement indicating the latest date for filing application, and will be made public at least fifteen days before the closing date for accepting applications. If, at the closing date, the resident director determines that the number of qualified applicants is insufficient to warrant offering the examination, he or she may extend that date and reschedule the examination, providing that persons who have applied to take the examination are notified.

720—3.54(19A) *Eligibility to compete in examinations.* Anyone who applies for employment in a specific class at a regents institution and who meets the minimum qualifications prescribed for that class, and who is not rejected or disqualified under 3.55(19A), will have the right to take an examination when offered for that class.

720—3.55(19A) *Rejection or disqualification of applicants.* The resident director may reject any applicant or, after examination, may refuse to certify any candidate if it is found that the person:

1. Does not meet the minimum required qualifications for the class;
2. Is so disabled that he or she cannot perform the duties of the job;
3. Habitually uses narcotics or uses intoxicating beverages to excess;
4. Has made a false statement of material fact in his or her application;
5. Has information concerning the examination to which he or she is not entitled;
6. Has reached normal retirement age of the institution;
7. Has been convicted of a felony or an indictable misdemeanor which makes him or her unsuitable for employment in a particular class or position;
8. Has been dismissed from private or public service for a cause that would be detrimental to his or her employment with the regents.

A disqualified applicant or eligible will promptly be notified in writing of such action at his or her last known address. A disqualified applicant or eligible may request review of the reason for his or her disqualification. Such request will be in writing and upon the receipt the resident director will give full consideration to the request, and notify the applicant of his or her decision in writing.

720—3.56(19A) *Administering the examination program.*

3.56(1) *Security.* Necessary security precautions and procedures will be exercised by the resident director to maintain the highest integrity in the examination program.

3.56(2) *Notification of results.* Applicants will be notified in writing of the results of their test(s) as soon as possible, and test scores will be made available only to the

*Emergency, pursuant to §17A.5(2)"b"(1) of the Code.

3.129(2) Appeals. The board of regents will approve the use of a single arbitrator in hearing an appeal. The selection of the arbitrator shall be made from a panel of arbitrators as referred from the Federal Mediation and Conciliation Service with a preference for those Iowans so certified.

The arbitrator will hear a dispute appealed to the last step of the grievance procedure and render a decision thereon subject only to review by the courts.

The arbitrator will establish procedures for the conduct of the hearing in a fair and informal manner that will afford each party reasonable and ample opportunity to present his or her case and to rebut the presentation of the other. The arbitrator will be expected to render a decision to the involved parties and to the board of regents within the prescribed time.

[Filed July 12, 1971; amended November 4, 1974]

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720—3.130 to 3.139 Reserved.

VACATIONS AND LEAVES OF ABSENCE

720—3.140(19A) Attendance. Employing departments will establish work schedules and other regulations regarding attendance that they deem necessary in accordance with these rules and the policy and rules of their institution, and such schedules and rules will be made known to affected employees.

720—3.141(19A) Vacations. Permanent and probationary employees will accrue and take vacations as provided by law. Employees will be entitled to take only that vacation time which they have accrued and while employee preferences will be given major consideration, employing departments will have final authority to schedule vacations.

Permanent and probationary part-time employees will accrue vacation in an amount equivalent to their fractional employment. An employee who is transferred, promoted or demoted from one position to another position under this system will not lose any accumulated vacation time as a result thereof.

720—3.142(19A) Holidays. Permanent and probationary employees will be granted holidays approved by the board of regents.

720—3.143(19A) Medically-related disability leave. Permanent and probationary employees will accrue medically-related disability leave as provided by law and will be entitled to such leave on presentation of satisfactory evidence of medically-related disability. A permanent part-time employee will accrue medically-related disability leave in an amount equivalent to his or her fractional employment, and no employee will be granted medically-related disability leave in excess of his or her accumulation.

An employee who is transferred, promoted or demoted from one position to another position under this system will not lose any accumulated medically-related disability leave as a result thereof.

A permanent employee who is still incapacitated after exhausting all accumulated medically-related disability leave and vacation time will, at his or her request, be placed on the re-employment lists for the class of position he or she previously occupied and on re-employment lists for lower level classes for which qualified, when the employee is able and qualified to return to work. Such an employee's acceptance of re-employment in a lower class will not affect his or her standing on the re-employment list for the class that the employee formerly occupied.

720—3.144(19A) Military leave. Permanent and probationary employees will be granted military leave as provided by law, with pay not to exceed thirty calendar days in any twelve-month period.

720—3.145(19A) Maternity leave. The time during which an employee is unable to work because of a disability caused or contributed to by pregnancy, miscarriage, abortion, childbirth

and recovery therefrom will be treated as medically-related disability leave in accordance with 3.143(19A). If an employee's accumulated medically-related disability leave is insufficient to cover the period of disability, she will at her request be granted a leave of absence without pay for the duration of that period. Any request for absence which is beyond the period of disability will be considered as a leave of absence without pay in accordance with 3.149(19A) or as vacation in accordance with 3.141(19A).

720—3.146(19A) Court and jury service. When, in obedience to the subpoena or direction by proper authority, an employee appears as a witness or serves as a member of a jury in any public or private litigation, he or she will be entitled to his or her regular compensation provided he or she surrenders to his or her employing institution any pay he or she receives, other than reimbursement for travel or personal expenses, for such service.

720—3.147(19A) Voting leave. Any person entitled to vote in a public election is entitled to time off from work with pay on any public election day for a period not to exceed two hours in length. Application for time off for voting should be made to the employee's supervisor prior to election day. The time to be taken off may be designated by the supervisor. Time off for voting may be granted only if the employee's working hours do not allow a three-hour period outside of working hours during which the polls are open.

720—3.148(19A) Emergency and funeral leave. An employing department will, when satisfied by evidence presented, grant an employee time off with pay:

1. Not to exceed three days for each occurrence in the case of death in the employee's immediate family;
2. Not to exceed one day for each occurrence for service as a pallbearer at the funeral of a person not a member of the employee's immediate family; and
3. Not to exceed five days a year for the temporary emergency care of ill or injured members of the employee's immediate family for the time necessary to permit the employee to make other arrangements.

*All such time off will be charged to the employee's accrued medically-related disability leave and will not be granted in excess of the employee's accrued leave. For the purpose of this rule, immediate family is defined as and limited to wife, husband, children (and their spouses), parents, grandparents, grandchildren, foster children (and their spouses), brothers (and their spouses), sisters (and their spouses) of the employee or spouse; aunts and uncles of the employee; or other relatives residing in the employee's immediate household.

720—3.149(19A) Leave of absence without pay. In the best interests of the institution and its employees and with approval of the resident director, a department head may grant an employee's request for a leave of absence without pay for up to one year. With the same approval such a leave may be extended for no more than one additional year.

On conclusion of a leave of absence without pay, an employee, if qualified, will be returned to the position from which he or she was granted leave or to another position in the same class. If such a position no longer exists, the layoff provisions of these rules will take effect.

720—3.150(19A) Election leave. Employees who become candidates for public office will be granted election leaves as provided by law.

720—3.151(19A) Olympic competition leave of absence. Employees shall be granted leaves of absence to participate in olympic competition sanctioned by the United States olympic committee as provided by law.

This rule is intended to implement section 79.24 of the Code.

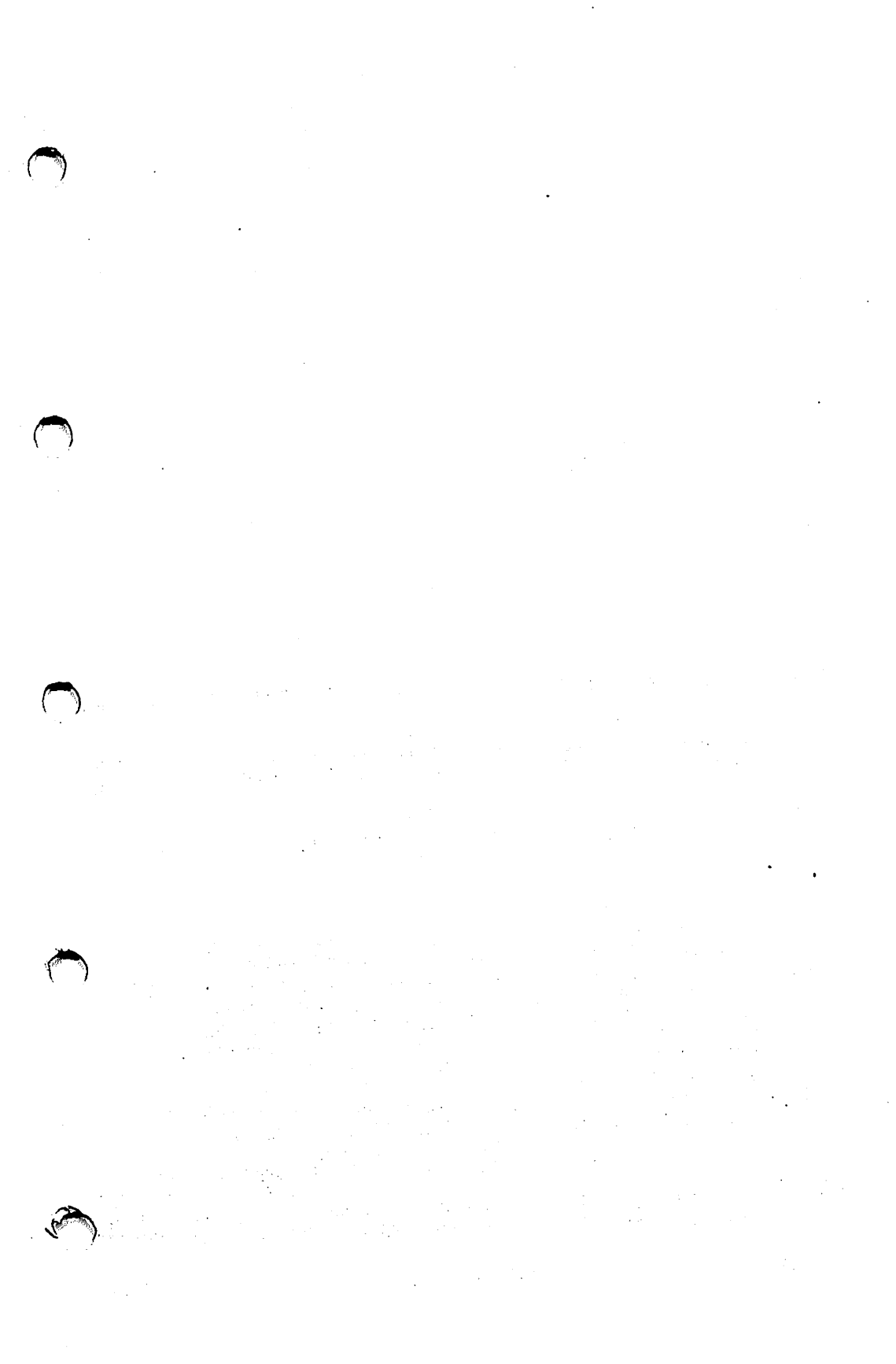
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For additional history, see individual divisions within chapter 3.

CHAPTER 4 TRAFFIC AND PARKING AT UNIVERSITIES UNIVERSITY OF IOWA

720—4.1(262) Purpose. The purpose of these rules is to provide for the policing, control and regulation of traffic and of parking vehicles on the campus of the state University of Iowa.

720—4.2(262) Definitions. For the purpose of these rules, the following definitions shall



the availability of facilities or any other relevant criterion to determine the priority of employees for assignment of parking privileges or any optional plan or facility.

4.6(3) Visitors. Visitors may be granted parking privileges in parking facilities designated for visitor parking. Optional plans and facilities may be offered as determined by the director. Reasonable classifications may be established on the basis of the time, duration or purpose of the visit, physical disability, the availability of facilities, or any other relevant criterion to determine the eligibility of visitors for parking privileges or any optional plan or facility.

4.6(4) Procedure. Applications for parking privileges shall be submitted to the director in the manner he prescribes. No student shall apply for parking privileges for any vehicle owned or actually maintained by another student. The director shall determine the eligibility and priority of each applicant for parking privileges within the classifications established in 4.6(1), 4.6(2) and 4.6(3) and shall make all parking assignments. A parking decal or other means of identification may be issued to each applicant who is granted parking privileges, and such decal or other identification must be displayed on the vehicle in the manner prescribed by the director. Parking privileges shall not be granted to a student and to an employee for the same vehicle, and a student parking decal and an employee parking decal shall not be displayed on the same vehicle.

4.6(5) Parking fees. The university may assess and collect from students, employees and visitors reasonable fees or charges for parking privileges and the use of parking facilities. The amount of such fees and charges shall be established by the university and approved by the state board of regents, and a schedule of all parking fees and charges shall be published and available for inspection during normal business hours in the office of the director and in the office of the state board of regents. Parking fees and charges may be assessed and collected on an annual, semester, monthly or hourly basis. Parking fees and charges may be added to student tuition bills and may by agreement be withheld from the salaries or wages of employees by payroll deduction. Parking fees and charges may be collected by means of parking meters or toll houses. Use of any parking facility constitutes an implied agreement to pay the prescribed fee or charge therefor.

4.6(6) University business. Special parking privileges may be granted for vehicles being used on official university business on the conditions and in the manner prescribed by the director.

4.6(7) Responsibility. Any person who owns or operates a vehicle which is parked on the campus or in whose name the vehicle is registered or parking privileges have been granted is responsible for the proper parking of the vehicle at all times when it is on the campus and for all parking violations involving the vehicle.

4.6(8) Liability. Parking privileges granted hereunder constitute a license to use university parking facilities and do not constitute a lease of such facilities or a bailment of the vehicle by the university. Use of university parking facilities is at the owner's or applicant's risk, and the university shall not be liable or responsible for loss of or damage to any vehicle parked on the campus.

4.6(9) Revocation. Parking privileges on the campus may be revoked by the university for good cause at any time upon five days' written notice and refund of any advance payment of parking fees or charges on a pro rata basis for the revoked period.

720—4.7(262) Violations. Sanctions may be imposed for violation of registration and parking rules as follows:

4.7(1) Notice of violations. The university shall give written notice of all parking violations. Such notice may be given by means of a notice of parking violation placed conspicuously on the offending vehicle, and such notice shall constitute constructive notice of the violation to the owner and operator of the vehicle and to any person in whose name the vehicle is registered or parking privileges have been granted.

4.7(2) Sanction. Reasonable monetary sanctions may be imposed upon students and employees for violation of vehicle registration or parking rules. The amount of such

sanctions, not to exceed ten dollars for each offense, shall be established by the university and approved by the state board of regents. A schedule of all sanctions for improper registration and parking shall be published and available for public inspection during normal business hours in the office of the director and in the office of the state board of regents. Registration and parking sanctions may be assessed against the owner or operator of the vehicle involved in each violation or against any person in whose name the vehicle is registered or parking privileges have been granted and charged to their university account. Registration and parking sanctions may be added to student tuition bills or may be deducted from student deposits or from the salaries or wages of employees or from other funds in the possession of the university.

4.7(3) Impoundment. Any vehicle parked on the campus in violation of parking rules may be impounded and removed. The university shall give written notice of impoundment to the owner of the vehicle or to the person in whose name the vehicle is registered or parking privileges have been granted. A reasonable fee may be charged for the cost of impoundment and storage, which fee must be paid prior to the release of the vehicle. Impounded vehicles which are not claimed within sixty days will be deemed abandoned property and may be sold under procedures set forth in chapter 579 and the proceeds of the sale will be applied to the payment of the costs of impoundment, storage and sale. The balance, if any, shall be sent to the owner.

4.7(4) Administrative hearing. Students and faculty may request a hearing and administrative ruling concerning a controversy, based on the imposition of a sanction for a registration or parking violation, or an impoundment procedure, by the appropriate hearing body as set forth in the motor vehicle and bicycle regulations published by the university. Visitors may request the director to conduct a hearing and issue an administrative ruling in such cases.

720—4.8(262) Administration of rules. The president of the university shall be responsible for the proper administration of these rules. He is authorized to establish procedures not inconsistent with these rules as may be reasonably necessary and convenient for the effective administration of his duties hereunder, and any procedure so established shall be published and available for public inspection during normal business hours in the office of the director and in the office of the state board of regents. The president may delegate his authority under these rules to the director or to any other person designated by the president to perform any function or duty hereunder.

[Filed September 22, 1971; amended December 22, 1972, October 10, 1973]

4.9 to 4.24 Reserved.

IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY

720—4.25(262) General traffic.

4.25(1) The motor vehicle laws of the state of Iowa are in effect on campus and other Iowa State University property.

4.25(2) Faculty, staff, students and visitors are expected to know and comply with the state motor vehicle laws, the traffic ordinances of the city of Ames and the Iowa State University traffic and parking rules. Vehicles in violation may be towed away.

4.25(3) The maximum speed limit on all campus drives, roads and streets is twenty-five mph unless otherwise posted.

4.25(4) Pedestrians shall be given the right of way at all crosswalks or when in compliance with existing traffic controls. Motor vehicles and bicycles operating on the roadway shall stop for pedestrians in crosswalks.

4.25(5) Driving of motor vehicles on campus walks and lawns is prohibited except when special permission has been granted by the physical plant for emergency conditions.

4.25(6) Driving of motor vehicles in parts of streets or roads marked as bicycle lanes is prohibited.

4.25(7) Moving or driving around an authorized barricade shall not be permitted.

4.25(8) Operators of vehicles and bicycles shall comply with all traffic signs directing the movement of vehicles in parking lots.

4.25(9) All motor vehicles shall use mufflers that will control noise to levels that do not exceed the following when measured on the "A" scale of a standard sound level meter at slow response:

Distance	Sound Level
At 25 feet	86 dBA
At 50 feet	80 dBA

4.25(10) Violations of the motor vehicle laws of the state of Iowa may be referred to a Magistrate Court of Story County.

4.25(11) The president of the university or the president's authorized representative shall place and maintain such traffic-control devices as are deemed necessary upon or about drives, roads and streets under the president's jurisdiction.

This rule is intended to implement section 262.69.

720—4.26(262) Two- or three-wheeled motor vehicles.

4.26(1) All operators or drivers of two-wheeled motor vehicles (motorcycles, motor scooters, motorbikes or others) shall know and comply with all laws, ordinances and regulations as required for all motor vehicles in 4.25(262).

4.26(2) Two-wheeled motor vehicles are prohibited on campus lawns, walks and designated bicycle lanes.

4.26(3) Driving two-wheeled motor vehicles on university property other than streets or roads is prohibited, unless specific areas have been designated for such use by the physical plant.

4.26(4) Every two-wheeled motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unnecessary noise when driven on campus. Muffler cutout, bypass or similar device is prohibited.

4.26(5) All items in this section apply equally to three-wheeled motor vehicles.

4.26(6) Battery-powered motor-driven wheelchairs for invalids or the handicapped are not considered to be included in these rules.

720—4.27(262) Snowmobiles. Operation of snowmobiles is prohibited on all university property unless specific areas have been designated for such use by the physical plant.

720—4.28(262) Restricted access streets.

4.28(1) Certain streets or portions of streets are closed to general motor vehicle and bicycle travel as posted.

4.28(2) Emergency and service vehicles will be permitted on restricted access streets by use of key cards or other control devices issued by the parking system office.

4.28(3) Parking lots that have access only from restricted access streets will be used only for motor vehicles carrying reserved permits. Permit holders for these lots will be issued key cards (one per permit) allowing entrance to the restricted access streets.

4.28(4) Motor vehicle access to the restricted portion of the campus shall be limited to established gate openings. No other means of access shall be permitted.

4.28(5) Restricted access key cards shall be used only for access to reserved parking lots by permit holders or service access to buildings within the restricted access area.

4.28(6) Hours that restricted access street gates are closed and streets designated as restricted access streets may be modified by action of the president or the president's authorized representatives.

720—4.29(262) General parking. Vehicles in violation may be towed away.

4.29(1) Parking privileges in university parking lots, on or off campus, are available, upon application, to eligible members of the faculty, staff, student body or visitors, subject to provisions set forth hereinafter. Visitors are not exempt from the penalties for parking violations.

4.29(2) Restrictions.

a. Parking of motor vehicles on campus, except at meters and loading zones, is restricted to vehicles bearing current official university parking permits. See 4.36(2) "b", for publicly owned vehicles. See 4.32(7).

b. Except in specifically posted areas and on official university holidays when the university is closed, the restriction stated in 4.29(2) "a", applies during the hours from 7 a.m. to 5:30 p.m. Mondays through Fridays.

c. Quarter breaks and seasonal holidays for students are not official holidays. See 4.32(7).

d. All other regulations in this "traffic and parking rules" are in effect twenty-four hours a day every day.

4.29(3) In the event of an emergency, breakdown, or repair, a temporary equivalent parking permit for a period not to exceed two weeks will be issued without charge when application is made in person at the parking system office.

4.29(4) Illegal parking. Illegal parking is defined as parking any place on campus other than those areas which have been designated for parking and identified by signs controlling their use. Vehicles in violation may be towed away.

a. Parking is prohibited at crosswalks, building entrances, fire hydrants, fire lanes, marked bicycle lanes, loading docks (except when loading and unloading) and other areas posted "No parking at any time" or marked by a yellow line or curb. Vehicles displaying a service vehicle parking permit may park in designated service parking areas.

b. Taking a motor vehicle into any university building is prohibited except where a shop or garage is especially designated for the purpose of vehicle repair or storage.

c. Vehicles parked in designated parking space on a roadway where there are adjacent curbs are prohibited from parking in any manner other than with the right-hand wheels parallel to and within eighteen inches of the right-hand curb. Parking of vehicles with the left-hand wheels parallel to and within eighteen inches of the left-hand curb on a one-way roadway is permitted in specifically posted areas.

d. It shall be defined as illegal parking to insert anything other than legal tender or authorized meter tokens into any meter.

4.29(5) Improper parking. Improper parking is defined as parking incorrectly in those areas which have been designated for parking and identified by signs controlling their use. Vehicles in violation may be towed away.

a. Parking in any lot in other than a head-on position, except in designated university student apartment areas, is subject to penalty for improper parking.

b. Parking over or across stall marker lines, where such lines are provided, is subject to penalty for improper parking.

c. Use of thirty-minute loading zone areas beyond posted time limitations is subject to penalty. Multiple violation citations may be issued for consecutive time limits exceeded.

d. Parking without appropriate permit in all lots when restrictions stated in 4.29(2) apply, is subject to penalty.

4.29(6) Iowa State University assumes no liability or responsibility for damage to any vehicle parked in any university parking area.

4.29(7) The university reserves the right to close temporarily any parking area on or off campus for university purposes. Advance notice of closing will be given when practical.

4.29(8) Parking in the Memorial Union parking ramp is subject to regulations, time, and fees established by the Memorial Union.

4.29(9) Multiple violation citations may be issued for each hour that a violation continues to exist and for each thirty-minutes in loading zones and thirty-minute meters. Vehicles in violation may be towed away.

720—4.35(262) Provisions for handicapped and disabled.

4.35(1) Physically handicapped or medically disabled students may apply for special parking privileges upon issuance of a letter by the director of the student health service or the rehabilitation counselor, student counseling service, indicating the character, extent, and probable duration of the disability and certifying the need for special parking. Parking space to best serve the needs of each individual will be arranged by the parking system office. The fee will be at the rate of six dollars per quarter and two dollars for summer.

4.35(2) Physically handicapped or medically disabled faculty or staff members may apply for special parking privileges upon issuance of a letter by the director of the student health service or the rehabilitation counselor, student counseling service, indicating the character, extent, and probable duration of the disability and certifying the need for special parking. Parking space to best serve the needs of each individual will be arranged by the parking system office. The fee will be at the rate of fifteen dollars per quarter.

4.35(3) Authorization to park in spaces provided for physically handicapped or medically disabled students or visitors, except at the Iowa State Center, is given only to those vehicles bearing a valid medical permit issued by the parking system office. Violators will be subject to a penalty and/or having the vehicle towed away.

4.35(4) Those parking spaces displaying University medical reserved signs are restricted to vehicles according to subrules 4.35(1) and (2) and are enforced as provided in subrule 4.29(2) "b". Parking spaces displaying the Iowa department of transportation handicapped signs are restricted to vehicles with the Iowa department of transportation permits twenty-four hours a day seven days a week.

720—4.36(262) Parking publicly owned vehicles.

4.36(1) Operators of publicly owned vehicles are subject to all university traffic and parking regulations.

4.36(2) Publicly owned vehicles, federal or state, shall be parked overnight in the car pool area provided by the university, unless otherwise accommodated.

a. Such vehicles are not required to display a university parking permit, but must be registered by the person responsible for them at the parking system office.

b. These vehicles may be parked in staff or permit parking lots for periods not exceeding eight hours. They shall not be parked in reserved areas if they do not display an appropriate reserve permit. If parked in a metered area, the appropriate meter fee shall be paid.

4.36(3) Publicly owned vehicles that are to be parked in staff or permit lots for more than eight hours shall be provided with and display a general staff parking permit. See 4.33(262).

4.36(4) University-owned department vehicles required in the operation of the department may apply for a reserved parking stall. Upon approval of the application, the assignment will be made free of charge.

720—4.37(262) Visitor parking. Vehicles in violation may be towed away.

4.37(1) Occasional visitors on campus shall park either in metered parking spaces or the Memorial Union ramp.

a. A limited number of meter parking permits which authorize all-day parking at any parking meter on the campus, except one-half hour meters (orange banded) is available from the parking system office for a fee of \$2.00 per day. Such permit is not valid in the Memorial Union parking ramp.

b. Visitors who have frequent occasion to visit the campus on business may apply for a general staff parking permit. See 4.33(14).

c. Occasional visitors to the campus, whose visit is scheduled in advance, may receive a temporary parking permit if a written request is submitted by the departmental executive officer or director through the responsible dean. Requests must be presented to the parking system office at least two working days in advance of the date such permit is needed. Issuance of such permits is conditional upon the availability of parking space and

assignment will be designated by the parking system office. Fees for temporary parking permits for advanced scheduled visitors may be designated by the university traffic committee.

4.37(2) Visitors enrolled in short courses of more than one week duration are considered as students. See 4.32(262).

4.37(3) Faculty members who are in charge of short courses and conferences may apply to the university traffic committee for issuance of special parking permits to short course enrollees. Assignments to parking lots may be made provided the short course is scheduled at such a time and limited to such a number of enrollees that the assignments do not interfere with normal parking.

4.37(4) Fees for special parking permits for short course enrollees shall be designated by the traffic committee.

4.37(5) Visitors enrolled in short courses or conferences of less than one week duration, who do not have a special parking permit, shall park either in the Memorial Union ramp or in parking meter areas.

4.37(6) Visitors to the university student apartments shall park only in areas designated as "Visitor" parking.

720—4.38(262) Metered parking.

4.38(1) Metered parking spaces are provided in most campus parking lots and on some campus streets.

4.38(2) Metered parking spaces are open to all (faculty, staff, students, and visitors) upon payment of the proper fee for the time the space is occupied. See 4.30(1).

4.38(3) The time limits shall be as indicated on the meter. Meters with orange bands just below the heads are one-half hour only. All other meters are one hour or longer.

4.38(4) A limited number of meter parking permits which authorize all-day parking at any parking meter on the campus except one-half hour meters (orange banded) are available from the parking system office for a fee of \$2.00 per day. Such permit is not valid in the Memorial Union parking ramp.

4.38(5) Care should be taken to assure that the vehicle being parked is within the marked area corresponding to the correct meter.

4.38(6) Violation for overtime parking in metered spaces is subject to penalty.

4.38(7) Multiple violation citations may be issued for consecutive time limits exceeded.

4.38(8) An inoperative parking meter shall be reported immediately to the parking system office. An officer will be dispatched immediately to check meter.

4.38(9) It shall be defined as illegal parking to insert anything other than legal tender or authorized meter tokens into any meter.

720—4.39(262) Two- or three-wheeled motor vehicle parking.

4.39(1) Two- or three-wheeled motor vehicles (motorcycles, motor scooters, and motor bikes) shall be parked only in areas designated for such parking. Small irregular areas in parking lots shall not be used for such purpose unless so designated.

4.39(2) Parking permits for parking such motor vehicles in areas designated for that purpose may be purchased for a fee of two dollars per quarter.

4.39(3) Such motor vehicles may be parked in metered areas upon payment of the meter fee. Two- or three-wheeled motor vehicles may not be parked in the same stall with a four-wheeled motor vehicle.

4.39(4) More than one such motor vehicle may be parked in the same stall provided all vehicles are completely within the designated stall area.

4.39(5) If an overtime citation is made where multiple vehicles are parked in one stall, the violation penalty will be charged against each vehicle individually.

720—4.40(262) Car pools.

4.40(1) Anyone having two or more motor vehicles which may be used alternately for parking on campus may apply for car pool privileges. Any group of individuals wishing to park vehicles alternately on campus may apply for car pool privileges for up to five motor vehicles.

4.40(2) Each vehicle in the car pool shall be registered, and upon registration will be issued an identification sticker. See 4.41(1). This sticker is not a parking permit.

4.40(3) The car pool will be issued one transferable parking permit which shall be on display in the car parked on campus. If the car pool requires a key card for access to a reserved lot or space in a restricted access area, one key card will be issued with the transferable parking permit. See 4.41(6).

4.40(4) If more than one car of a car pool is to be parked on campus simultaneously, the extra car or cars must be parked in a metered area and appropriate meter fee paid. See 4.38(5) for all-day meter permit.

4.40(5) Car pool privileges are available to eligible faculty-staff members for either general [4.33(262)] or reserved [4.34(262)] parking permits, and to eligible students [4.32(262)].

4.40(6) The parking permit fee for a car pool is as follows:

- a. Reserved assignment permit—sixty dollars per year. Subject to all rules in 4.34(262).
- b. General parking permit—twenty dollars per year. Subject to all rules in 4.33(262).
- c. Student parking permit—six dollars per quarter. Subject to all rules in 4.32(262).

4.40(7) One member of the car pool shall submit the application for all members of the car pool, and such member shall be responsible for payment of the full parking permit fee.

720—4.41(262) Affixing and removal of permits.

4.41(1) Identification stickers and parking permits other than car pool permits, shall be firmly affixed to either the inside of the rear window at the lower edge on the driver's side or as provided in the instructions accompanying the permit.

4.41(2) On motorcycles, permits and identifications shall be affixed to handlebar adjacent to steering column with number visible from top.

4.41(3) Identification stickers and student parking permits shall be properly affixed by midnight of the first day of classes. Expired parking permits and identification stickers shall be completely removed on expiration date.

4.41(4) Faculty and staff parking permits shall be properly affixed by September 1 or within three working days after the permit holder becomes a staff member. Expired parking permits and identification stickers shall be completely removed on expiration date.

4.41(5) Identification stickers or parking permits taped or clipped on windows are not considered firmly affixed.

4.41(6) Transferable car pool parking permits shall be inserted in the envelope slot or suspended from the interior rear view mirror when the pool car is parked on campus.

720—4.42(262) Replacement of permits.

4.42(1) In the event that a motor vehicle is sold or transferred to a new owner or user, the identification sticker or parking permit shall be removed. If the sticker or permit is so removed and parts thereof recovered and returned to the parking system office, a new corresponding sticker or permit will be issued free of charge for the replacement vehicle.

4.42(2) Upon substantial evidence, including the filing of a written report at the parking system office or designated office, that the original parking permit, identification sticker, or key card has been lost, stolen, or destroyed, a duplicate permit, sticker, or card will be issued upon the payment of the following appropriate fee.

a. Car pool transferable permit	\$5.00
b. Restricted access key card	\$5.00
c. Reserved parking permit	\$2.00
d. General parking permit	\$2.00
e. Student parking permit	\$1.00
f. Motorcycle parking permit	\$1.00
g. ID sticker	no charge
h. Residence hall student parking permit	\$3.00

720—4.43(262) Refunds.

4.43(1) Fees for faculty and staff parking permits issued on an annual basis may be refunded for the unexpired quarters on a quarterly basis upon written application enclosing the remnants of the permit removed from the vehicle. No refunds are made for the spring and summer quarters.

4.43(2) The schedule of refunds for general or reserved faculty and staff parking permits is as follows:

	General	Reserved
Any time during Fall Quarter	\$14.00	\$42.00
Any time during Winter Quarter	8.00	24.00
Any time during Spring and Summer Quarters	none	none

4.43(3) No refunds will be made on parking permits issued on a quarterly basis after the first week of classes.

720—4.44(262) Definition of bicycle.

4.44(1) The term "bicycle" as used herein includes every device having two or more wheels and propelled by human power (except wheelchairs) upon which any person may ride.

4.44(2) Any bicycle equipped with a motor shall be considered a motor vehicle and subject to the traffic and parking rules for motor vehicles.

720—4.45(262) Applicability of bicycle.

4.45(1) It shall be the policy of Iowa State University to co-operate with the city of Ames on the identification of bicycles. The following section of the Ames Municipal Code is cited for your information:

"Section 7-2001. License required. No person shall ride or propel a bicycle on any street, sidewalk, or upon any public path set apart for the use of bicycles unless such bicycle is licensed by the city of Ames and there is affixed to said bicycle such tag, sticker, plate, or other device as may be issued by the city of Ames as evidence of such license." City of Ames licenses may be obtained at campus locations designated by the parking system office, the security and traffic control office, or at the city fire stations.

4.45(2) The regulations set forth herein are applicable only on university lands.

4.45(3) Every person operating a bicycle, whether as owner or not, shall conform to all provisions of the regulations set forth herein and shall be penalized for any violation thereof.

720—4.46(262) Bicycle traffic.

4.46(1) *Applicability of traffic laws.* Every person riding a bicycle on a street or roadway is granted all the privileges and is subject to all the rules applicable to the driver of any vehicle on that street or roadway and to the special rules in this section, except those provisions of the laws which by their nature have no application.

4.46(2) Obedience to traffic control devices.

a. Any person operating a bicycle shall obey the instructions of official traffic-control devices, restricted access street gates, signs and signals applicable to motor vehicles, unless otherwise directed by a police officer or authorized traffic director.

b. Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no person operating a bicycle shall disobey the direction of any such sign, except where such person dismounts from the bicycle to make any such turn, in which case such person shall obey the rules applicable to pedestrians.

4.46(3) *Bicycle paths.* Whenever a separate bicycle path intersects a roadway, persons riding bicycles upon such bicycle path shall yield the right-of-way to all vehicles approaching on said roadway.

4.46(4) On campus streets with no marked bicycle lanes and where no adjacent designated bicycle path exists, bicyclists shall use existing streets and are subject to motor vehicle rules.

4.46(5) *Sidewalks.* Bicycle riders shall not use campus sidewalks except those specifically designated as bicycle paths as posted. Attention is directed to the Ames Municipal Code, which prohibits riding on the sidewalk on the south side of Lincoln Way between Stanton Avenue and Hayward Avenue.

4.46(6) Rescinded, effective 11/7/79.

4.46(7) *Right of way of pedestrians.* Whenever any person is riding a bicycle, such person shall yield the right of way to any pedestrian in a designated crosswalk.

4.46(8) Lawn areas. Bicycle riders shall not ride on lawns or any areas not designated as a bikeway.

720—4.47(262) Parking bicycles. Bicycles in violation may be impounded.

4.47(1) Parking. Bicycles shall be parked in the bicycle racks provided. They shall not be parked on lawns, on sidewalks, or chained to trees, light poles, fences or benches. Bicycles improperly parked may be impounded by cutting and removal of locking device, if necessary.

4.47(2) Bicycles. Bicycles that are considered to be abandoned will be removed by cutting the locking device, if necessary, and impounded.

4.47(3) Buildings. Bicycles shall not be taken inside any university building except in areas authorized by the traffic committee.

720—4.48(262) Operation of bicycles.

4.48(1) Riding. A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto.

4.48(2) Number of passengers. No bicycle shall be used to carry more than one person per seat.

4.48(3) Reckless operation. No person shall operate a bicycle in a reckless manner or in such a way as to endanger other persons or property.

4.48(4) Emerging from alley, driveway, parking area. The operator of a bicycle emerging from an alley, driveway or parking area shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right of way to all pedestrians approaching on said sidewalk or sidewalk area and upon entering the roadway yield the right of way to all vehicles approaching on said roadway.

4.48(5) Clinging to vehicles. No person riding upon any bicycle shall cling to or otherwise attach the bicycle to any moving vehicle.

4.48(6) Carrying articles. No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one hand upon the handlebars.

4.48(7) Yielding. Bicycles shall yield the right of way to motor vehicles turning across marked bicycle lanes in streets at uncontrolled intersections when both vehicles are traveling in the same direction.

720—4.49(262) Equipment.

4.49(1) Lamps, reflectors required. Every bicycle when in use during the hours from sunset to sunrise shall be equipped with a lamp which shall emit a white light visible from a distance of five hundred feet to the front and with a red reflector or lamp which shall be visible three hundred feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle.

4.49(2) Brake required. Every bicycle shall be equipped with a properly functioning brake.

720—4.50(262) Penalties.

4.50(1) The person to whom a parking permit or identification sticker has been issued by the university shall be responsible for all parking violations involving the vehicle bearing the respective sticker.

4.50(2) Violation of any of the regulations governing the use of motor vehicles and bicycles on campus will subject the violator to a penalty according to the following schedule:

- | | |
|---|----------------------|
| a. Altering or counterfeiting any parking permit [See 4.30(9)]. | \$15.00 each offense |
| b. Providing erroneous registration information [See 4.30(8)]. | \$ 5.00 each offense |
| c. Failure to comply with traffic signs directing the movement of vehicles in parking lots [See 4.25(8)]. | \$ 5.00 each offense |

- d. Driving on campus walks or lawns, and riding a bicycle on lawns or walks not designated as bicycle paths [See 4.25(5), 4.26(2), 4.46(5) and 4.46(8)]. \$15.00 each offense
 - e. Driving motorcycles on other than streets and roadways [See 4.26(3)]. \$ 5.00 each offense
 - f. Driving on closed streets [See 4.28(1)]. \$ 5.00 each offense
 - g. Driving on bicycle lanes [See 4.25(6) and 4.26(2)]. \$ 5.00 each offense
 - h. Moving or driving around a barricade [See 4.25(7)]. \$ 5.00 each offense
 - i. Access to restricted portion of campus by other than established gate openings [See 4.28(4)]. \$ 5.00 each offense
 - j. Improper use of key card [See 4.28(5)]. \$ 5.00 each offense
 - k. Failure to display a current identification sticker [See 4.30(4)]. \$25.00 each offense
 - l. Illegal parking [See 4.29(4), 4.47(1) and 4.38(3)]. \$ 5.00 each offense
 - m. Improper parking [See 4.28(3), 4.29(5), 4.31(5), 4.31(6), and 4.32(8)]. \$ 5.00 each offense
 - n. Improper parking in a space or stall designated for handicapped or disabled students, faculty, or staff [See 4.35(3)]. \$10.00 each offense
 - o. Failure to completely remove expired parking permit when a current permit has been affixed [See 4.41(3) and 4.41(4)]. \$ 1.00 each offense
 - p. Overtime parking at meters [See 4.38(7)]. \$ 2.00 each offense
 - q. Failure to display transferable car pool permit. \$ 2.00 each offense
 - r. Unauthorized possession and use of a parking permit [See 4.30(6)]. \$40.00 each offense
 - s. Failure to display a current bicycle registration [Rule 4.45(1)] \$10.00 each offense
- 4.50(3)** Rescinded, effective 11/7/79.
- 4.50(4)** The security and traffic control department is responsible for removing from campus any vehicle considered to be abandoned or which is left unattended on a street or in a parking lot in such a way as to constitute a traffic hazard or an obstruction to the normal movement of traffic.
- 4.50(5)** Any person who has accumulated either a total of five unpaid violation citations other than for overtime parking at parking meters, or a total of twenty-five dollars in unpaid penalties may be subject to having any motor vehicle for which that person is responsible immobilized or towed away and impounded.
- 4.50(6)** When motor vehicles are towed and/or impounded, the cost of such towing and impounding shall be paid by the person responsible for said vehicle according to the records of the parking system office. Towing and impounding may consist of either:
- a. Physical removal of the vehicle from the campus by a private contractor with impoundment on the premises of the contractor or
 - b. Immobilization of the vehicle in place by affixing to the vehicle a device designed for that purpose.

4.50(7) Impounded or immobilized motor vehicles may not be released until the penalties have been paid at the parking system office or arrangements have been made to pay the penalties at the university business office.

4.50(8) Moving bicycle violations of the motor vehicle laws of the state of Iowa may be referred to the magistrate court, city of Ames.* The penalty for conviction is a fine plus court costs.

4.50(9) Rescinded, effective 11/7/79.

4.50(10) Impounded bicycles may be claimed within a three-month period after

*Sec 4.25(10)

impoundment upon proper identification and payment of a three-dollar impounding fee. Bicycles impounded and unclaimed after three months will be sold at auction.

720—4.51(262) Institutional appeals.

4.51(1) Filing of an appeal or giving notice of intention of appeal shall be made at the parking system office.

4.51(2) An appeal of a violation ticket issued under these rules must be submitted in writing to the traffic appeals board within seven days after issuance of the violation ticket or the right to appeal will be forfeited and the amount of the fine billed.

4.51(3) A violator may, upon written request, have a personal hearing before the traffic appeals board.

4.51(4) Reappeal of cases before the traffic appeals board which have been heard and acted upon by that board may be instituted only if new pertinent and substantial evidence is to be introduced.

4.51(5) The traffic appeals board has two sections, one for faculty, staff and visitors and another for students. Appeals and correspondence should be addressed to the proper section of the Appeals Board, Parking System Office, ISU Campus, Ames, Iowa 50010.

4.51(6) Within fifteen days following a final decision of the traffic appeals board on an appeal, a violator may request in writing an administrative hearing under the Iowa Administrative Procedures Act. Such hearings shall be conducted at least quarterly upon fifteen days notice in accordance with chapter 17A of the Code of Iowa.

720—4.52(262) District court appeal. Appeal from traffic appeals board ruling may be heard de novo by the district court.

720—4.53(262) Failure to pay penalties.

4.53(1) The amount of the penalty may be added to the student's fees at registration. Registration cannot be completed until all outstanding obligations to the university are paid. A hold may be placed on transcripts until penalties are paid.

4.53(2) The amount of the penalty may be deducted from the paycheck of university employees.

4.53(3) Habitual and flagrant violators of the rules will be referred to the all-university judiciary.

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4.54 to 4.65 Reserved.

UNIVERSITY OF NORTHERN IOWA

720—4.66(262) Purpose. The purpose of these rules is to provide for the policing, control and regulation of parking of vehicles on the campus of the University of Northern Iowa.

720—4.67(262) Definitions. For the purpose of these rules, the following definitions shall apply unless the context clearly requires otherwise, and all other words shall have meaning according to their common usage.

4.67(1) University. "University" refers to the University of Northern Iowa, located in Cedar Falls, Iowa.

4.67(2) Student. A "student" is any person registered with the university for academic credit or for short courses or workshops for more than a one week period.

4.67(3) Employee. An "employee" is any person regularly employed by the university who is not a student.

4.67(4) Visitor. A "visitor" is any person who owns, operates, or parks a vehicle on the university campus who is not a student or an employee.

4.67(5) Vehicle. A "vehicle" is any wheeled device used or designed for use as a means of transportation or conveyance of persons or property.

4.67(6) Motor vehicle. A "motor vehicle" is any vehicle which is self-propelled and has four or more wheels in contact with the ground.

4.67(7) Motorcycle. A "motorcycle" is any vehicle which is self-propelled and has less than four wheels in contact with the ground.

REVENUE DEPARTMENT [730]

STATE BOARD OF TAX REVIEW

CHAPTER 1 ADMINISTRATION

- 1.1(17A) Establishment, general course and method of operations, methods by which and location where the public may obtain information or make submissions or requests

6.1(17A)

Establishment, organization, general course and method of operations, methods by which and location where the public may obtain information or make submissions or requests

6.2(17A)

Public inspection

CHAPTER 2 CONDUCT OF APPEALS, RULES OF PRACTICE AND PROCEDURE

- 2.1(421,17A) Definitions
2.2(421,17A) Notice of appeal
2.3(421,17A) Contents of notice of appeal
2.4(421,17A) Certification by director
2.5(421,17A) Motions and special appearances
2.6(421,17A) Responsive pleadings
2.7(421,17A) Docketing
2.8(421,17A) Filing of papers
2.9(421,17A) Hearing an appeal
2.10(421,17A) Amendments
2.11(421,17A) Appearances by appellant
2.12(421,17A) Prehearing procedure
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2.14(421,17A) Place of hearing
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2.16(421,17A) Presiding officer
2.17(421,17A) Rulings of the chair
2.18(421,17A) Rules of evidence
2.19(421,17A) Transcript of hearing
2.20(421,17A) Suspension or alterations of rules
2.21(17A) Declaratory rulings
2.22(17A) Petitions for rulemaking

CHAPTERS 3 to 5 Reserved

TITLE I ADMINISTRATION

CHAPTER 6 ORGANIZATION, PUBLIC INSPECTION

PRACTICE AND PROCEDURE BEFORE THE DEPARTMENT OF REVENUE

- 7.1(17A) Definitions
7.2(17A) Scope of rules
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7.4(17A) Computation of time, filing of documents
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7.8(17A) Protests
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7.10(17A) Docket
7.11(17A) Informal procedures and dismissals of protest
7.12(17A) Answer
7.13(17A) Subpoenas
7.14(17A) Commencement of contested case proceedings
7.15(17A) Discovery
7.16(17A) Prehearing conference
7.17(17A) Contested case proceedings
7.18(17A) Interventions
7.19(17A) Record and transcript
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7.24(17A) Licenses
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7.26(17A) Rulemaking proceedings

CHAPTER 8 FORMS Forms

8.1(17A)

CHAPTER 9
FILING AND EXTENSION OF TAX
LIENS AND CHARGING OFF
UNCOLLECTIBLE TAX ACCOUNTS

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- 9.2(422.423) Lien attaches
- 9.3(422.423) Purpose of filing
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SALES AND USE

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- 14.1(422) Tax not to be included in price
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CHAPTER 15
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- 15.1(422.423) Conditional sales to be included in gross sales
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- 15.6(422.423) Discounts—when deductible
- 15.7(422.423) Trading stamps are not a discount

2. Substantially state in separate numbered paragraphs the following:

a. Proper allegations showing jurisdiction of the department, by stating the date of the certified assessment, the tax periods on a claim for refund or the date of denial on a claim for refund, whichever is applicable.

b. The nature of the tax, the taxable period or periods involved and the amount thereof in controversy, if any;

c. Clear and concise statements of each and every error which the protestor alleges to have been committed by the director in the notice of the deficiency or denial of refund. Each assignment of error shall be separately numbered;

d. Clear and concise statements of all relevant facts upon which the protestor relies;

e. Refer to any particular statute or statutes and any rule or rules involved;

f. A prayer setting forth the relief sought by the protestor;

g. The signature of the protestor or that of his or her representative;

h. Description of records or documents which were not available or were not presented to department personnel prior to the filing of the protest, if any;

i. Any other matters deemed relevant and not covered in the above paragraphs;

j. The desire of protester to waive informal or contested case proceedings if he or she so desires; unless the protestor so indicates a waiver, informal procedures will be initiated.

Upon receipt of the protest, the hearing officer shall docket the protest in a docket kept for that purpose and shall assign a number to the case which number shall be placed on all subsequent pleadings filed in the case. An original and four copies of the protest shall be filed, one copy of which shall be promptly served by the hearing officer upon the director.

The protestor may amend his or her protest at any time.

730—7.9(17A) Identifying details. Any person may, at any time, petition the hearing officer to delete identifying details concerning the person from any document relating to any proceedings as defined in rule 7.1(17A), item 13, prior to disclosure to members of the public.

If the petition concerns information which is not a part of a contested case, the petition shall be in the form of a request to delete identifying details; if part of a contested case, the petition shall be in the form of a motion to delete identifying details. All motions to delete shall conform to rule 7.17(3).

The motion or request shall contain the following:

1. The name of the person requesting deletion and the docket number of the proceeding, if applicable.

2. The legal basis for their request for deletion; such as, release of the material would be a clearly unwarranted invasion of personal privacy or the material is a trade secret or of advantage to competitors. A corporation may not claim an unwarranted invasion of privacy.

3. A precise description of the document, report or other material in the possession of the department from which the deletion is sought, and a precise description of the information to be deleted. If deletion is sought from more than one document, each document and the materials sought to be deleted from it shall be listed in separate paragraphs. Also contained in each separate paragraph shall be a statement of the legal basis for the deletion requested in that paragraph, such as, the material sought to be deleted is a trade secret or its release would give advantage to competitors and serve no public purpose.

4. An affidavit in support of deletion must accompany each motion or request. The affidavit must be sworn to by a person familiar with the facts asserted within it and shall contain a clear and concise explanation of the facts justifying deletion, not merely the legal basis for deletion.

5. All affidavits shall contain a general statement that the information sought to be deleted is not available to the public from any source or combination of sources, direct or indirect, and if the grounds for deletion is that the release of information would give advantage to competitors, the general statement that the release would serve no public purpose.

A ruling on a request or motion shall not become the final decision of the department until thirty days after the date of the ruling unless there is an appeal to, or review on motion of, the director within thirty days of the date of the ruling.

730—7.10(17A) Docket. The hearing officer shall maintain a docket of all proceedings and each of the proceedings shall be assigned a number. Every matter coming within the purview of these rules shall be assigned a docket number which shall be the official number for the purposes of identification. Upon receipt of a protest, petition for declaratory ruling or petition to initiate rulemaking proceedings, the proceeding will be docketed and assigned a number, and the parties notified thereof. This number shall be placed by the parties on all papers thereafter filed in the proceeding.

730—7.11(17A) Informal procedures and dismissals of protests.

7.11(1) Informal procedures. Persons are encouraged to utilize the informal procedure provided herein so that a settlement may be reached between the parties without the necessity of initiating contested case proceedings. Therefore, unless the protester indicates a desire to waive the informal procedures in his or her protest or the department waives informal procedures upon notification to the protester, such informal procedures will be initiated as herein provided upon the filing of a proper protest.

a. Tax review committee. Whether or not protestor waives informal procedures, a tax review committee designated by the director will review the protest, audit, or other department action. The committee may, but need not, be composed of the appropriate tax division director, the deputy director, or a member of the legal division described in subrule 6.1(4). The committee shall have the right to request that members of the attorney general's staff advise the committee.

After review of the protest, audit, or other department action, the committee may delete any items contained therein which it determines should not be controverted by the department and, if a protestor has not waived informal procedures, the committee may request the protestor and his or her representative to attend an informal conference with the committee or a committee-designated subcommittee to explore the possibility of reaching a settlement without the necessity of initiating contested case proceedings or of narrowing the issues presented in the protest if no settlement can be made.

If informal procedures have been waived, the committee, in its discretion, may issue findings on the issues involved in a protest filed pursuant to rule 7.8(17A). Whether or not informal procedures have been waived, the committee shall have the subpoena power described in rule 7.13(17A).

If informal procedures have not been waived, the committee shall issue findings dealing with the issues raised in the protest unless the issues may be more expeditiously determined in another manner or the committee determines that findings are unnecessary. The committee's proposed decision on the issues may be subject to review by the director. The committee shall notify the protestor of the committee's decision on the issues.

Nothing herein shall prevent the committee and the protestor from mutually agreeing as to how the protest shall be informally reviewed.

b. Settlements and stipulations. Whether or not informal procedures have been waived, if a settlement is reached during informal procedures on some or all of the issues, the hearing officer shall be notified and, upon the request of any party the hearing officer shall draw an order and serve it upon all parties which order shall set forth the settlement reached and, if the settlement disposes of all the issues, shall terminate the case. If the settlement disposes of some, but not all, of the issues and the hearing officer is requested to issue an order as heretofore described, the order shall govern the issues in protest in any further proceedings.

If informal procedures are not utilized or if no settlement can be reached mutually agreeable to the protestor and the department during informal procedures when same are not waived, the protestor and the department are encouraged to stipulate as to all facts on which the parties can agree prior to initiation of contested case proceedings to expedite and facilitate contested case proceedings. The desirability of waiving any provisions of the Act relating to contested case proceedings should also be considered.

7.11(2) Dismissal of protests. Whether informal procedures have been waived or not, the failure of the protestor to timely file a protest or to pursue the protest may be grounds for dismissal of the protest by the department.

A protest so dismissed may be reinstated by the tax review committee for good cause shown if an application for reinstatement is filed with the hearing officer within thirty days of the date the protest was dismissed. The application shall set forth all reasons and facts upon which the protestor relies in seeking reinstatement of his or her protest. The tax review committee shall review the application and notify the protestor whether the application is granted or denied. If the tax review committee denies the application to reinstate the protest, the protestor has thirty days from the date of the application for reinstatement was denied in which to request, in writing, a formal hearing before the hearing officer on the dismissal. When a written request is received, the hearing officer shall issue a notice as prescribed in rule 7.14(17A) except that the issue of the contested case proceeding shall be limited to the question of whether the protest shall be dismissed or not. Thereafter, the rules of the department pertaining to contested case proceedings shall apply in such dismissal proceedings.

Once contested case proceedings have been commenced, whether informal proceedings have been waived or not, it shall be grounds for a motion to dismiss that a protester has either failed to diligently pursue his protest or refuses to comply with requests for discovery set forth in rule 7.15(17A).

730—7.12(17A) Answer. On matters covered by 7.11(1), the department shall file an answer within thirty days of the notification to the protester of the tax review committee's findings in writing and the protester's written statement to the department that he or she does not agree with the committee's findings, except that the department need not file an answer in matters involving penalty and interest.

In the event that the protester does not so respond in writing to the findings issued on matters covered by subrule 7.11(1) within thirty days of notification to the protester, the department may, in its discretion, assume that the protester does not agree with the findings and file its answer to the protest.

The answer of the department shall be drawn in a manner as provided by the Iowa rules of civil procedure for answers filed in Iowa district courts.

Each paragraph contained in the answer shall be numbered to correspond, where possible, with the paragraphs of the protest. An original copy only of the answer shall be filed with the hearing officer and shall be signed by the director or his or her counsel or representative.

The department shall forthwith serve a copy of the answer upon the representative of record, or if there is no representative of record then upon the protester, and shall file proof of service with the hearing officer at the time of filing of the answer. The department may amend its answer at any time.

The provisions of rule 7.12(17A) shall be considered as a part of the informal procedures since a contested case proceeding, at the time of filing the answer, has not yet commenced. However, an answer shall be filed pursuant to this rule whether or not informal procedures have been waived by the protester or the department.

730—7.13(17A) Subpoenas. Prior to the commencement of a contested case, the department shall have the authority to subpoena books, papers, records and shall have all other subpoena powers conferred upon it by law.

730—7.14(17A) Commencement of contested case proceedings. Contested case proceedings will be commenced by the hearing officer, upon request by either party (which request may include a date to be set for the hearing), through delivery of notice by certified mail return receipt requested to the parties. Contested case proceedings will not be commenced until after the filing of the answer, unless no answer is required. The notice shall include:

1. A statement of the time (which shall allow for a reasonable time to conduct discovery), place and nature of the hearing;
2. A statement of the legal authority and jurisdiction under which the hearing is held;
3. A reference to the particular sections of the statutes and rules involved;
4. A short and plain statement of the matters asserted.

After the delivery of the notice commencing the contested case proceedings, the parties may file such further pleadings or amendments to pleadings as they desire. However, any pleading or amendment thereto which is filed within seven days prior to the date scheduled for the hearing or filed on the date of the hearing shall constitute good cause for the party adversely affected by such pleading or amendment to seek and obtain a continuance.

become a matter of public record. The department shall, within sixty days following the filing of the petition, either deny the petition in writing on the merits or initiate public rulemaking procedures as set forth in 7.26(1). After careful consideration, if it is determined that the petition does not disclose sufficient reasons to justify the commencement of public rulemaking proceedings or if the petition materially fails to comply with the requirements of these rules, or if it is determined the petitioner is not an interested person, the petition shall be denied and the petitioner so notified together with any other relevant reasons for such denial; provided, however, that the provisions of this subrule shall not prevent the department, in its discretion, from acting on any matter disclosed in any petition.

7.26(3) Conduct of public hearing. When required to do so, or in its discretion, the department shall conduct a public hearing. Each hearing shall be presided over by the director or his or her designee. The hearing shall be conducted in such a way that interested persons will have a reasonable opportunity to present their views or submit their arguments on matters relevant to the issues involved. The director or his or her designee shall have authority to take any action necessary for the orderly conduct of the hearing.

Each hearing shall be held at the time and place set in the notice of hearing, but at such time and place the hearing may be continued by the director or his or her designee to a later time or date and will be set for hearing at a different time and place without notice other than by announcement at the hearing.

A person who wishes to be assured of being heard shall submit, at least fifteen days prior to the date of the hearing, an outline of the topics he or she wishes to discuss, the time he or she wishes to devote to each topic and any written comments. An agenda will then be prepared containing the order of presentation of oral comments and the time allotted to such presentation. Ordinarily, a period of ten minutes will be the time allotted to each person for making his or her oral comments. At the conclusion of the presentations of comments of persons listed in the agenda, to the extent time permits, other comments will be received.

In lieu of the reading of a prepared statement at the hearing, a person's oral comments shall ordinarily be limited to a discussion of matters relating to any written comments submitted and to questions and answers in connection therewith. Oral comments shall not be merely a restatement of matters the person may have submitted in writing. Persons making oral comments should be prepared to answer questions not only on topics listed in his or her outline but also in connection with other matters relating to his or her submitted written comments. In order to be assured of the availability of copies of such written comments or outlines on or before the hearing, any person who desires such copies should make such a request within fifteen days of the hearing and shall agree to pay a reasonable cost for copying. Persons who make such a request will be furnished copies as soon as they are available, but it may not be possible to furnish the copies before the beginning of the hearing. Except as provided in the preceding sentences, copies of written comments regarding the rules proposed shall not be made available at the hearing.

At the commencement of the hearing, the director or his or her designee shall read the notice of hearing and then shall outline briefly the procedure to be followed.

Every person shall, before proceeding to testify at the hearing, state his or her name, address, and whom he or she represents at the hearing and shall give such other information respecting his or her appearance as the director or his or her designee may request.

In the case of unusual circumstances or for good cause shown, the application of rules contained in this subrule may be waived. To the extent resources permit, the public hearings to which this subrule applies may be transcribed.

All outlines and written comments to be submitted prior to the hearing shall be addressed to the Hearing Officer, Iowa Department of Revenue, Hoover* State Office Building, Des Moines, Iowa 50319.

7.26(4) Submission of written data, views or arguments. All interested persons shall be

*Emergency, pursuant to §17A.5(2)"b" of the Code.

afforded an opportunity to submit data, views, or arguments in writing within the time provided by the notice of proposed rulemaking.

Designations of material as confidential or not to be disclosed, contained in such comments, will not be accepted. Thus, a person submitting written comments in response to a notice of proposed rulemaking should not include therein material that he or she considers to be confidential or inappropriate for disclosure to the public. It will be presumed by the department that every written comment submitted to it in response to a notice of proposed rulemaking is intended by the person submitting it to be subject in its entirety to public inspection and copying.

Written comments in response to a notice of proposed rulemaking shall conform to 7.5(17A) and shall be submitted to the Hearing Officer, Iowa Department of Revenue, Hoover* State Office Building, Des Moines, Iowa 50319.

These rules are intended to implement chapter 17A of the 1975 Code.

[Filed July 1, 1975]

[Filed emergency 7/16/76—published 8/9/76, effective 7/16/76]

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[Filed 9/14/79, Notice 8/8/79—published 10/3/79, effective 11/7/79]

CHAPTER 8 FORMS

730—8.1(17A) Forms. Forms and instructions are developed by the department to aid and assist taxpayers in exercising their rights and discharging their duties under the tax laws and rules and to explain the tax laws and rules. Many taxes are assessed and collected through the self-determination and self-application of the law and the rules by taxpayers. The tax forms are the instruments through which this is accomplished. The department also provides other necessary or appropriate forms for assisting the public in complying with the technical requirements of the tax laws and rules.

The material contained in the forms and instructions, and the arrangement thereof, is carefully considered and is designed to lead the taxpayer step-by-step through an orderly accumulation of data to an accurate report of the information required.

Copies of all necessary forms and instructions may be obtained from the Iowa Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319 or from the department's various field offices located throughout the state.

The subrules which follow list and describe those forms and instructions which members of the public use when dealing with the department and the various tax divisions within the department. Each direction of every instruction shall be complied with and each question in every form answered in the same manner as if the forms and instructions were embodied in these rules.

*Emergency, pursuant to §17A.5(2)"b"(2) of the Code.

department shall notify each bank in writing of the removal or addition of any distributor authorized to purchase such stamps and meter settings.

This rule is intended to implement section 98.8(1) and (2) of the Code, as amended by Chapter 57, Acts of the Sixty-seventh General Assembly.

730—83.11(98) Credits. Each designated bank shall accept requisitions for stamps and meter settings only if the proper remittance is received with the requisition form. A bank may not accept credits against any order for stamps or meter settings. All credits for stamps and meter settings must be submitted by the distributor to the department and may not be tendered through designated banks.

This rule is intended to implement section 98.8(1) and (2) of the Code, as amended by Chapter 57, Acts of the Sixty-seventh General Assembly.

730—83.12(98) Designating banks. In the interest of proper distribution of stamps and meter settings, the director shall have the authority to designate banks using, but not limited to, the following criterion:

1. Geographical location to distributors.
2. Centered where the largest volume of stamps and meter settings are needed.
3. Easy access by common carrier.
4. Distributor accounts already being handled.

This rule is intended to implement section 98.8(1) and (2) of the Code, as amended by Chapter 57, Acts of the Sixty-seventh General Assembly.

730—83.13(98) Termination of authorization. The director may terminate and withdraw the authorization of a designated bank when the bank has not complied with these rules and the law or any amendments thereto. The director may terminate authorization of a bank if the criterion changes or it is in the best interest of proper distribution. Termination of authorization of a designated bank shall be made by certified mail to the affected bank. When terminated a bank must settle with the department at once, returning all stamps and other materials belonging to the department along with remittance for all stamps not in inventory and all meter settings outstanding. However, a bank may appeal the termination by filing a protest pursuant to the provisions of chapter 7 of the rules of the department. A bank may terminate on ninety days' written notice to the director and settle at termination date with the department as above.

This rule is intended to implement section 98.8(1) and (2) of the Code, as amended by Chapter 57, Acts of the Sixty-seventh General Assembly.

730—83.14(98) Stamp inventory. Each bank shall keep an adequate inventory of stamps on hand to supply distributors assigned to said bank for at least six weeks. Stamps will be shipped freight prepaid to the bank from the department or from the supplier of the stamps. The supplier of the stamps shall advise the department at once by mail of a shipment to a bank and the bank shall advise the department at once by mail of the receipt of said stamps. Each bank shall store stamps in a secured vault.

This rule is intended to implement section 98.8(1) and (2) of the Code, as amended by Chapter 57, Acts of the Sixty-seventh General Assembly.

[Filed 11/23/77, Notice 10/19/77—published 12/14/77, effective 1/18/78]

TITLE XI
INHERITANCE

CHAPTER 86
COMPUTATION

730—86.1(450) The Commissioners 1958 Standard Ordinary Mortality Table. Where death occurs on or after July 4, 1965, inheritance tax shall be computed by use of the Commissioners 1958 Standard Ordinary Mortality Table.

This rule is intended to implement chapter 450 of the Code.

[Filed July 5, 1955; amended September 4, 1959, December 8, 1959,
February 26, 1960, January 18, 1961, February 8, 1961, May 19, 1961,
December 7, 1961, December 28, 1961, July 31, 1963, May 13, 1964,
November 17, 1965, March 8, 1966]

CHAPTERS 87 to 90
Reserved

TITLE XII
GAMES OF SKILL, CHANCE, BINGO AND RAFFLES

CHAPTER 91
ADMINISTRATION

730—91.1(99B) Applicability of chapters 99A and 99B. Gambling is unlawful in this state except as authorized by chapters 99A and 99B of the Code of Iowa. Gross receipts from gambling are subject to sales tax. There are no exemptions or exceptions. Gambling occurs when a consideration is paid to take a chance to win a prize. See 1976 O.A.G. 319.

This rule is intended to implement section 99B.15 of the Code.

730—91.2(99B) Definitions. When the word "department" appears herein, the same refers to and is synonymous with the "Iowa Department of Revenue"; the word "director" is the "Director of Revenue" or the director's authorized assistants and employees; the word "division" is the "Excise Tax Division, Iowa Department of Revenue."

The administration of the gambling laws, except for law enforcement, is a division created by the director. This division is charged with the administration of the gambling laws, subject to the law, rules and direction of the director.

730—91.3(99B) Credentials and receipts. Employees of the department must have official credentials, and the licensee should require proof of the identity of a person claiming to represent the department. No charges shall be made nor gratuities of any kind accepted by an employee of the department for assistance given in or out of the office of the department.

All employees authorized to collect money are supplied with official receipt forms. When cash is paid to an employee, the payer should require the employee to issue an official receipt. Such receipt shall show the payer's name, address and license number; the purpose

for the payment; and the amount of the payment. The payer should retain all receipts, and only official receipts for payment will be recognized by the department.

730—91.4(99B) Licensing, books, records and accounting required. The department shall be the agency responsible for issuing gambling licenses required by law. Except for the special fourteen consecutive day license and the annual game night (twelve-hour license), all licenses are valid for a period of one year from date of issue. The licensee fee shall not be refundable, but shall be returned to the applicant in the event an application for a gambling license is not approved.

There are seven types of gambling licenses: (1) A one-year license for an amusement concession; (2) a fourteen-day license for a carnival, bazaar, centennial or celebration as described in chapter 92 of these rules; (3) a one-year social gambling license as described in chapters 93 and 95 of these rules; (4) a license for a raffle at a bona fide fair as described in chapter 92 of these rules; (5) a license for an annual game night as described in chapter 96 of these rules; (6) a one-year license for a qualified organization as described in chapter 94 of these rules; and (7) a fourteen-day license for a qualified organization as described in chapter 94 of these rules.

All gambling licensees, except for those holding a "social gambling" license, shall maintain proper books of accounts and records showing all transactions of receipts and disbursements. Gambling records shall be maintained separately from all other records except that the information shall be combined for tax purposes with other records. The books of accounts and records shall be made available to the department for inspection, at reasonable times, with or without notice.

Each licensee required to maintain records shall submit quarterly reports to the department on forms furnished by the department. Quarterly reports will be submitted on a calendar quarter basis. The first quarter will be January 1 through March 31 each year; the second quarter will be April 1 through June 30 each year; the third quarter will be July 1 through September 30 each year; and the fourth quarter will be October 1 through December 31 each year. Quarterly reports will be due no later than the last day of the month following the end of each quarter.

730—91.5(99B) Revocation of license. Revocation of a license issued by the department may be initiated when the licensee has: Failed to file the proper sales tax returns or quarterly gambling report; failed to timely remit the tax due; made payment of tax with unhonored checks; failed to properly dedicate receipts; failed to comply with the procedures for conducting games of skill, games of chance, bingo and raffles as outlined in the Code; or, failed to comply with any other provisions of chapter 99B of the Code.

[Filed 12/10/76, Notice 10/6/76—published 12/29/76, effective 2/2/77]

[Filed Emergency 4/28/78—published 5/17/78, effective 4/28/78]

[Filed 9/14/79, Notice 8/8/79—published 10/3/79, effective 11/7/79]

CHAPTER 92 AMUSEMENT CONCESSIONS

730—92.1(99B) Definitions and requirements.

92.1(1) "Amusement concession" means any place where a single game of skill or game of chance is conducted by a person for profit, and includes the area within which are confined the equipment, playing area, and other personal property necessary for the conduct of the game.

92.1(2) "Game of skill" means a game whereby the result is determined by the player directing or throwing objects at designated areas or targets, or by maneuvering water or an object into a designated area, or by maneuvering a dragline device to pick up particular items, or by shooting a gun or rifle.

92.1(3) "Game of chance" means a game whereby the result is determined by chance and the player in order to win aligns objects or balls in a prescribed pattern or order or makes certain color-patterns appear and specifically includes but is not limited to the game defined as bingo. Game of chance does not include a slot machine.

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92.1(4) "Build up" or "pyramid": The requirement that a prize be returned in order to play another game or to be eligible for a bigger prize, or the requirement that a prize which has been won be forfeited if the next or additional game is lost. There can be no "build up" or "pyramid" in games of skill or games of chance.

730—92.2(99B) Permissible locations. A game of skill or game of chance is lawful at an amusement concession only when conducted at the authorized location as follows:

1. At a fair, by written permission given to the person by the sponsor of the fair.
2. At an amusement park so designated by resolution of the city council of a city or the board of supervisors of a county, by written permission given to the person by the respective city or county.
3. At a carnival, bazaar, centennial, or celebration sponsored by a bona fide civic group, service club or merchants group when that event has been authorized by resolution of the city council of a city or the board of supervisors of a county, by written permission given to the person by the authorizing city or county. A bona fide civic group or service club is a group of citizens of a community co-operating to promote common good and general welfare of the people of a community. A bona fide merchants group is a group of merchants co-operating to promote common good for an area and to promote business in general for a given area such as a shopping center or a downtown area of a community.

730—92.3(99B) License, fee required. A person conducting a game of skill or game of chance at a fair or at an amusement park must submit an application for a license to the department and a fee of fifteen dollars for each game. If issued, said licensee shall prominently display the license at the playing area of the game. This license is valid for one year after date of issue unless revoked by the department. At a carnival, bazaar, centennial, or celebration sponsored by a bona fide civic group, service club, or merchants group a license may be issued by the department for a fee of twenty-five dollars which shall enable the sponsor of the event to conduct all games permitted for a specified period of fourteen consecutive calendar days. Any games conducted by a person other than the sponsor will be required to obtain a license for a fee of fifteen dollars for each game.

730—92.4(99B) Prizes. Cash prizes are unlawful and merchandise prizes cannot exceed twenty-five dollars in retail value. Merchandise prizes means a tangible usable product that gets its value from its own self. It must be wares and goods except that a merchandise gift certificate exchangeable for merchandise only is acceptable. The merchandise cannot be repurchased by the person conducting the game. The conductor of the game may not repurchase the prize. The conductor of the game may exchange small merchandise prizes for a prize of greater value provided the value of the exchanged prize does not exceed twenty-five dollars. No prize may be displayed which cannot be won in a single game.

730—92.5(99B) Conduct of the games. No gambling other than the licensed game shall be conducted or engaged in at the amusement concession. No concealed numbers or conversion charts can be used to play the game and the object of the game must be attainable and possible to perform under the rules of the game by an average individual. The possible results shall not be hidden, such as a punch board, pull-tab or numbers that are hidden. The game must be conducted in a fair and honest manner. The cost to play each game may not exceed one dollar.

The person conducting the game must post a sign at least thirty inches by thirty inches near the front or playing area of the game. The sign must be made of permanent material and state at the top in permanent letters at least three inches high: "Rules of the Game". Thereunder there shall be set forth in large easily readable print, the name of the game, the price to play the game, the complete rules for the game and the name and permanent mailing address of the owner of the game.

The above rules relating to conduct of games by amusement concessions shall also apply to games conducted at a carnival, bazaar, centennial or celebration. No raffles can be conducted at any amusement concession, carnival, bazaar, centennial or celebration under this section.

730—92.6(99B) Records. See 91.4(99B).

730—92.7(99B) Revocation of license. See 91.5(99B).

730—92.8(99B) Raffles conducted by a fair. Raffles may be conducted at a fair but only by the sponsor of the fair. "Fair" means an annual fair and exposition held by the Iowa state fair board and any fair held by a county or district fair or agricultural society under the provisions of chapter 174 of the Code of Iowa. The sponsor of the fair must obtain a license for which the fee is fifteen dollars for each raffle. The rules for the raffle must be posted in the same manner as those for a game of skill or game of chance. Cash prizes may not be awarded and merchandise prizes may not be repurchased. The raffle may not be operated on a pyramid or buildup basis. The cost of each chance or ticket to the raffle cannot exceed one dollar and the aggregate retail value of any prize cannot exceed twenty-five dollars in merchandise. There is no limit as to the number of winners in a raffle provided no one person wins more than twenty-five dollars in merchandise.

In addition to the normal raffles, a fair may hold one raffle per year at a cost of no more than five dollars per chance or ticket. Under this raffle there may only be one winner. The value of the prize in this raffle may be greater than twenty-five dollars but no greater than five thousand dollars. The prize may be a single item or an aggregate of several items, the total value of which does not exceed five thousand dollars.

[Filed 12/10/76, Notice 10/6/76—published 12/29/76, effective 2/2/77]

CHAPTER 93 GAMBLING WHERE LIQUOR AND BEER ARE SOLD

730—93.1(99B) Nature and where allowable. Certain "social games" between individuals are lawful on the premises for which a class "A", class "B", class "C" or class "D" liquor control license, or class "B" beer permit, all as defined in chapter 123 of the Code of Iowa, 1975, has been issued. Only games as allowed in rule 93.8(99B) may be participated in on these premises.

730—93.2(99B) Licenses allowed. A "social gambling" license may be issued by the department when proper application is submitted to the department along with a remittance of twenty-five dollars. The license, if issued, is valid for one year from the date issued. A liquor control licensee may also be licensed as a qualified organization pursuant to the rules of chapter 94(99B).

730—93.3(99B) Records and reports. Since the licensee cannot conduct any games, no special records and reports are required for a social gambling licensee.

730—93.4(99B) Revocation of license. See 91.5(99B).

730—93.5(99B) Renting of location. Only if the liquor control licensee holds a "qualified organization" license, may the licensee rent the licensed premises to another "qualified organization" to conduct their games of skill, games of chance or raffles. If the premises are rented to a qualified organization licensee, then the lessor must dedicate the net receipts from rent unless the lessor usually carries out a lawful business on the rented premises other than operating games of skill, games of chance or raffles.

This rule is intended to implement section 99B.7, subsection 2, of the Code.

730—93.6(99B) Annual game night. The liquor control licensee may allow the premises to be used only once each year for an “annual game night” and then only if the liquor control licensee has been issued a license pursuant to chapter 93 of these rules. The person conducting the annual game night must be in compliance with chapter 96 regarding rules on “annual game night”.

730—93.7(99B) Requirements for social gambling. The gambling must be incidental to a bona fide social relationship between all participants. The gambling must be fair and honest. No participant may win or lose more than a total of fifty dollars or other consideration at any time during any period of twenty-four consecutive hours or over that entire period. A bona fide social relationship means a real, genuine, unfeigned social relationship between two or more persons which has not arisen for the purpose of gambling.

No person may be required to pay a participation charge, cover charge or other charge for the privilege of participating in or observing gambling. Satisfaction of an obligation into which a member of an organization enters to pay at regular periodic intervals a sum fixed by that organization for the maintenance of that organization is not a charge which is prohibited. The licensee or the licensee's agents or employees may not sponsor, conduct or promote any game, but may participate the same as any other participant.

This rule is intended to implement sections 99B.6 and 99B.12(1)“a” of the Code.

730—93.8(99B) Games allowed and disallowed. Card and parlor games such as poker, pinochle, pitch, gin rummy, bridge, euchre, hearts, cribbage, dominos, checkers, chess, backgammon and darts are legal and may be played.

It shall be unlawful to engage in bookmaking, or to play any punchboard, pushcard, pull-tab or slot machine, or to play craps, chuck-a-luck, roulette, klondike, blackjack, chemin de fer, baccarat, faro, equality, three card monte or any other game, except poker, which is customarily played in gambling casinos and in which the house customarily provides a banker, dealer or croupier to operate the game, or a specially designed table upon which to play same.

Pool tables or any other game for which the licensee charges to play shall not be used for gambling purposes since a participation fee is charged by the licensee contrary to law.

730—93.9(99B) Responsibilities of licensee. No rebate, discount, credit, or other method can be used to discriminate between the charge for the sale of goods or services to participants in gambling and the charge for the sale of goods and services to nonparticipants. A representative of the department of revenue must be immediately admitted, upon request, to the premises with or without advance notice. No person under the age of eighteen years may participate in social gambling covered by this chapter. The licensee shall be strictly accountable for maintaining compliance by the participants.

[Filed 12/10/76, Notice 10/6/76—published 12/29/76, effective 2/2/77]

[Filed 9/14/79, Notice 8/8/79—published 10/3/79, effective 11/7/79]

CHAPTER 94 QUALIFIED ORGANIZATION

730—94.1(99B) Nature and dedication of net receipts. A person or the agent of a person submitting application to conduct games pursuant to this section as a qualified organization (as provided in section 99B.7 of the Code) shall certify as a part of that application that the net receipts of all games shall be distributed as prizes to participants or shall be dedicated and distributed to educational, civic, public, charitable, patriotic or religious uses in this state. “In this state” means that the net receipts shall be used for any legal purpose benefiting an indefinite number of persons who are citizens of this state. However, the granting of an educational scholarship to a citizen of this state for higher education to a college or university without this state shall qualify, since the dedicated receipts are used to benefit a citizen of this state. The important factor is that the use itself must qualify but the dedicated funds can be expended without the state for a qualified purpose benefiting an indefinite number of persons who are citizens of this state.

"Educational, civic, public, charitable, patriotic, or religious uses" means such uses as: (1) Benefiting a society for the prevention of cruelty to animals or animal rescue league; (2) benefiting an indefinite number of persons by bringing them under the influence of education or religion, by relieving them from disease, suffering, or constraint, by erecting or maintaining public buildings or works, or by otherwise lessening the burden of government; (3) benefiting any bona fide nationally chartered fraternal or military veterans' organization which operates within Iowa a clubroom, post, dining room or dance hall, as long as it continues to operate such places. Such uses do not include the erection, acquisition, improvement, maintenance, or repair of real, personal or mixed property unless it is used for one or more of the uses stated.

"Public uses" specifically includes dedication of net receipts to political parties as defined in section 43.2 of the Code. Gambling receipts earned or received by a political party shall not be used to benefit an individual candidate. The gambling receipts may be used to benefit the political party as an organization or to benefit an entire slate of candidates in the general election. "Charitable uses" includes uses benefiting a definite number of persons who are the victims of loss of home or household possessions through explosion, fire, flood, or storm and the loss is uncompensated by insurance, and uses benefiting a definite number of persons suffering from a seriously disabling disease or injury, causing severe loss of income or incurring extraordinary medical expense, which is uncompensated by insurance. If gambling net receipts are disbursed in noncompliance with the law and these rules, the department shall require the licensee to dedicate matching funds to a qualified recipient. The department may also revoke the gambling license.

Amounts awarded as prizes must be distributed on the day the prizes are won. The balance of net receipts must be distributed no later than one hundred eighty days from the date received unless permission to do otherwise is granted in writing by the department. The department may grant permission if good cause is shown.

This rule is intended to implement section 99B.7(3) "b" of the Code.

730—94.2(99B) License required. A person wishing to conduct games of skill, games of chance, raffles and bingo as a qualified organization shall submit an application and a license fee of twenty-five dollars. A person may be issued a limited license for a qualified organization to conduct games of skill, games of chance, raffles and bingo at a specified location and during a specified period of fourteen consecutive calendar days for a fee of fifteen dollars. A limited license shall not be issued more than once during any twelve-month period to the same person, or for the same location.

730—94.3(99B) Records and reports. A licensee shall maintain proper books of accounts and records showing gross receipts, gross receipts taxes collected or accrued, all expenses, charges, fees and other deductions, and the cash amounts or the cost to the licensee of goods or other noncash valuables, distributed to participants in the licensed activity. The amounts dedicated and the date, name and address of each person to whom distributed also shall be kept in the books and records. The books of accounts and records shall be made available to the department for inspection, with or without notice. Failure to permit inspection is a misdemeanor.

Expenses allowed will be the license fee, promotion expense, preparation expense, cleanup expense, equipment (prorated), overhead expense, prizes and other expenses incurred exclusively and directly as a result of the gambling activity. No expense item shall be allowed without a proper receipt, paid invoice or canceled checks. Before any expense item will be allowed, the burden of proof is on the licensee to show that the expense has been incurred exclusively and directly as a result of the gambling activity. The key factor is the expense must be incurred exclusively and directly as a result of the gambling activity.

Each licensee shall submit quarterly reports to the department on forms furnished by the department. Quarterly reports shall be on a calendar quarter as described in rule 91.4(99B). The report shall include all of the transactions occurring during the three-month period for which the report is submitted.

730—94.4(99B) Revocation of license. See 91.5(99B).

730—94.5(99B) Renting to or from qualified organization. Games of skill, games of chance, raffles and bingo may be conducted on premises owned or leased by the licensee. If the premises are rented from a qualified organization licensee, then the lessor must dedicate the net receipts from rent unless the lessor usually carries out a lawful business on the rented premises other than operating games of skill, games of chance or raffles. The licensee may also rent from other than a qualified organization licensee provided rent is a fixed amount and not on a percentage related to the amount of receipts. The qualified organization may terminate any rental agreement at any time without penalty and without forfeiture of any sum, and the lessor shall not be a liquor control licensee or beer permittee with respect to those premises or with respect to adjacent premises.

Schools, public and nonpublic, when authorized by an appropriate policymaking body, may conduct games of skill, games of chance, raffles and bingo if they acquire a proper license. Each school must have its own license. A school cannot conduct gambling using a license held by the school district. All student groups may operate under the school license on school premises. Parent and teacher groups must obtain their own license but may conduct games on school premises if authorized to do so by the school policymaking body.

730—94.6(99B) Games allowed. Games of skill, games of chance, raffles and bingo may be conducted by a licensed qualified organization at a location specified in rule 94.5(99B). A person conducting a game or raffle shall not be a participant in the game or raffle.

730—94.7(99B) Prizes. Cash prizes not to exceed one hundred dollars may be awarded in the game of bingo. However, once during any twenty-four-hour period a jackpot bingo game may be conducted beginning at no more than one hundred dollars wherein the prize doubles if not won at one game in the twenty-four-hour period. The jackpot game may be played several times in a twenty-four-hour period and the prize may double each game until the prize reaches the maximum five hundred dollar limit. However, once the jackpot is won, a new jackpot game shall not be started for twenty-four hours. The cost to play the jackpot game shall not be increased and the jackpot shall not pyramid to an amount more than five hundred dollars. Merchandise prizes may be awarded in lieu of cash prizes in bingo provided the actual retail value of said merchandise prizes does not exceed the cash limit.

Cash prizes shall not be awarded in games other than bingo. The actual retail value of any merchandise prizes, other than in bingo, shall not exceed twenty-five dollars and may not be repurchased. No prize shall be displayed which cannot be won in a single game. Merchandise prizes cannot be repurchased.

730—94.8(99B) Raffles. A licensee may conduct as many raffles during a license period as desired with no limit as to the number of winners or prizes, provided no one wins a prize with a value greater than twenty-five dollars. The cost for a chance or a ticket in the raffle shall not exceed one dollar. However, once during a twelve-month period a licensee may conduct a raffle for which a prize with a value greater than twenty-five dollars but no greater than five thousand dollars may be awarded. In this raffle there can be only one winner. The prize shall be merchandise only. See rule 92.8(99B) for explanation. The cost to a participant to this raffle cannot exceed five dollars for a chance or ticket.

730—94.9(99B) Requirements for games. Except in bingo, no game or raffle shall be operated on a buildup or pyramid basis. No concealed numbers, conversion charts or pull-tabs can be used. The object of the game must be attainable and possible to perform under the rules stated and from the playing position of the player. The game must be conducted in a fair and honest manner. Each game or raffle shall be posted as explained in rule 92.5(99B). The cost to a participant for each game shall not exceed one dollar.

This rule is intended to implement section 99B.7 of the Code.

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CHAPTER 95 GAMBLING IN PUBLIC PLACES

730—95.1(99B) Nature and where allowed. Certain “social games” between individuals are lawful on the premises of public places. Only games as allowed in rule 93.8(99B) may be participated in on these premises.

730—95.2(99B) Licenses allowed. A “social gambling” license may be issued by the department upon proper application being submitted to the department along with a remittance in the amount of twenty-five dollars. The license, if issued, is valid for one year from date issued. Pursuant to rules, chapter 94, a public place may also be licensed as a qualified organization.

730—95.3(99B) Records and reports. See rule 91.4(99B).

730—95.4(99B) Revocation of license. See rule 91.5(99B).

730—95.5(99B) Renting a location. If a person holds a “qualified organization” license, then the person may rent its business premises to another “qualified organization” to conduct their events. If the premises are rented to a qualified organization licensee, then the lessor must dedicate the net receipts from rent unless the lessor usually carries out a lawful business on the rented premises other than operating games of skill, games of chance or raffles. However where a lessor does not use the building to carry on a business but merely rents it on a landlord-tenant basis, the lessor need not be a qualified organization and dedicate its receipts.

This rule is intended to implement section 99B.7, subsection (2), of the Code.

730—95.6(99B) Annual game night. The licensee may allow the premises to be used only once each year for an “annual game night”. The person conducting the annual game night must apply to and obtain from the department a license to hold said event. The license is valid for twelve consecutive hours. See rules and regulations chapter 96 for rules on “annual game night”.

730—95.7(99B) Games allowed. The gambling must be incidental to a bona fide social relationship between all participants. The gambling must be fair and honest. No participant may win or lose more than a total of fifty dollars or other consideration at any one time during any period of twenty-four consecutive hours or over that entire period. No person may be required to pay a participation charge, cover charge or other charge for the privilege of participating in or observing gambling. Satisfaction of an obligation into which a member of an organization enters to pay at regular periodic intervals a sum fixed by that organization for the maintenance of that organization is not a charge which is prohibited. The licensee, or the licensee’s agents or employees may not sponsor, conduct or promote any game, but may participate the same as any other participant. Card and parlor games such as poker, pinochle, pitch, gin rummy, bridge, euchre, hearts, cribbage, dominos, checkers, chess, backgammon and darts are legal. It shall be unlawful to engage in bookmaking, or to play any punchboard, pushcard, pull-tab or slot machine, or to play craps, chuck-a-luck, roulette, klondike, blackjack, chemin de fer, baccarat, faro, equality, three card monte or any other game, except poker, which is customarily played in gambling casinos and in which the house customarily provides a banker, dealer or croupier to operate the game, or a specially designed table upon which to play same.

730—95.8(99B) Responsibilities of licensee. No rebate, discount, credit, or other method can be used to discriminate between the charge for the sale of goods or services to participants in gambling and the charge for the sale of goods and services to nonparticipants. A representative of the department of revenue must be immediately admitted, upon request, to the premises with or without advance notice. No person under the age of eighteen years may participate in social gambling covered by this chapter.

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[Filed 9/14/79, Notice 8/8/79—published 10/3/79, effective 11/7/79]

CHAPTER 96 ANNUAL GAME NIGHT

730—96.1(99B) Nature and where allowable. Except at an amusement concession or at a bona fide fair, games of skill, games of chance, card games and raffles may be conducted during a period of twelve consecutive hours once each year at any location, or by any person. A location covered by a class "C", or class "D" liquor control license or any beer permit must also hold a social gambling license in order to be used for an annual game night. The sponsor of the event must have an annual game night license which is valid for twelve consecutive hours. A bona fide social or employment relationship must exist between the sponsor and all of the participants. No participant is to be required to pay any consideration of any nature, either directly or indirectly, to participate in the games or raffles. All money or other items wagered are provided to the participant free by the sponsor. The person conducting the game or raffle receives no consideration, either directly or indirectly, other than good will.

This rule is intended to implement section 99B.8, subsection 1, of the Code.

730—96.2(99B) Qualified organization. If the sponsor of an annual game night is a qualified organization licensee, the sponsor may charge an entrance fee or a fee to participate in the games or raffles, and participants may wager their own funds and pay an entrance or other fee for participation, provided that a participant shall not expend more than a total of fifty dollars for all fees and wagers. The qualified organization must distribute all net receipts as prizes to participants or shall dedicate and distribute said receipts as provided for in chapter 94.

This rule is intended to implement section 99B.8, subsection 2, of the Code.

730—96.3(99B) License required. A person sponsoring an annual game night must submit an application and a license fee of twenty-five dollars to the department for approval. This license may be issued only once each year for any one location or to any one person. If the event is conducted on the premises of a class "C" or class "D" liquor licensee or any beer permit licensee, the location must also have a social gambling license. If the sponsor is a qualified organization and wishes to charge an entrance fee, the sponsor must also be a qualified organization licensee.

730—96.4(99B) Records and reports. If the sponsor is conducting the event strictly on a social or employment relationship basis and no fees of any nature are charged, no records are required. If the sponsor is a qualified organization, records and reports shall be made as required in chapter 94.

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[Filed 9/14/79, Notice 8/8/79—published 10/3/79, effective 11/7/79]

TITLE XIII
CHAIN STORE TAX

CHAPTER 97
ADMINISTRATION

730—97.1(424) Definition. When the word "*department*" appears herein, the same refers to and is synonymous with the "Iowa Department of Revenue"; the word "*director*" is the "director of revenue"; the word "*division*" is the "Chain Store Tax Unit of the Excise Tax Division, Iowa Department of Revenue"; the word "*person*" includes any individual, firm, copartnership, joint adventure, association, corporation, estate, trust, business trust, receiver, or any other group or combination acting as a unit, and the plural as well as the singular thereof, and all firms however organized and whatever be the plan of operation; and the word "*tax*" is the "tax upon every person within the state of Iowa engaged in conducting a business by a system of chain stores".

This rule is intended to implement section 424.2(1) and 424.2 of the Code.

730—97.2(424) Statute of limitations. While there is no period of time limitation on any proceeding or action to appraise, assess or determine the chain store tax, the department will limit any such proceeding or action to a period within five years after the tax became due.

EXAMPLE: An audit is conducted during the month of May 1983. The tax is due July 1 of each year. The department issues its assessment in June 1983. The assessment will include tax due July 1, 1978 through July 1, 1982, covering the taxable years from July 1, 1978 through June 30, 1983.

This rule is intended to implement section 424.10 of the Code.

730—97.3(424) Credentials and receipts. Employees of the department have official credentials, and the taxpayer should require proof of the identity of persons claiming to represent the department for assistance given in or out of the office of the department.

All employees authorized to collect money are supplied with official receipt forms. When cash is paid to an employee, the taxpayer should require the employee to issue an official receipt. Such receipt shall show the taxpayer's name, address and account number; the purpose for the payment; and the amount of the payment. The taxpayer should retain all receipts, and only official receipts for payment will be recognized by the department.

This rule is intended to implement section 424.11 of the Code.

730—97.4(424) Requirements for keeping records. Every person shall keep and preserve any books, records, papers, memoranda or documents necessary for the determination of any tax due for a period of five years and such documents shall be open for examination by the department during this period of time.

If a tax liability has been assessed and an appeal is pending before the department, state board of tax review or any court, books, papers, records, memoranda or documents which relate to the period covered by the assessment shall be preserved until the final disposition of the appeal.

This rule is intended to implement section 424.11 of the Code.

730—97.5(424) Audit of records. The department shall have the right and duty to examine or cause to be examined the books, papers, records, memoranda or documents of a person for the purpose of verifying the correctness of a return filed or determining whether a return should have been filed or tax paid by any person. When a person fails or refuses to produce the records for examination when requested by the department, the director shall have the authority to require, by a subpoena, the attendance of the person, and owner, manager, or employee of any store in the state, and any other witness having

TITLE XVI
REASSESSMENT EXPENSE FUND

CHAPTER 120
ORGANIZATION AND OPERATION

730—120.1(421) Organization of committee. The reassessment expense fund committee consists of the director of revenue, the state comptroller, and the chairperson of the state board of tax review. One of the three members is selected as the chairperson and it is his or her duty to call and chair meetings. The reassessment expense fund committee shall appoint a secretary who shall take minutes of committee meetings and maintain the committee's records. The committee is established to authorize loans from the reassessment expense fund for assessing jurisdictions used in reappraising a class or classes of property within the jurisdiction. A majority of the members must be present to constitute a quorum and a majority vote by those members present shall govern and control. The office of the committee is maintained in the office of the Department of Revenue in the Hoover State Office Building, Des Moines, Iowa 50319. Persons wishing to obtain information pertaining to the committee or to make submissions or requests should direct correspondence to that address.

730—120.2(421) Application for loan. Applications for loans from the reassessment expense fund may be made by a conference board established under section 441.2 of the Code. The application shall be made on forms provided by the director of revenue and shall be submitted to the director who will forward the application to the reassessment expense fund committee. Applications shall contain the following information:

1. A statement of the amount of funds in the special appraisal fund, any unencumbered balance in the assessment expense fund, and the maximum amount of revenue which could be raised from the assessment expense fund and the special appraisal fund.
2. A detailed statement as to how monies obtained from the reassessment expense fund will be expended, such statement to be itemized to indicate specific expenditures for personnel, supplies and materials, mileage, public information, and payment for any work performed under contract with a professional appraisal firm.
3. A copy of the assessing jurisdiction's most recent budget as approved by the state comptroller.
4. A copy of any proposed contract with a professional appraisal company.

730—120.3(421) Criteria for granting loan. In determining whether to grant a loan from the reassessment expense fund and the amount of any such loan, the reassessment expense fund committee shall consider the following factors:

1. The amount of monies presently on hand and not encumbered or intended for another purpose in both the assessment expense fund and the special appraisal fund.
2. When the assessing jurisdiction can next begin to collect revenues from the tax levied for the special appraisal fund.
3. The reasonableness and accuracy of the jurisdiction's statement as to how the funds are to be expended, giving special attention as to whether such funds will be expended in such a manner as to ensure compliance with the reassessment order.
4. The capability of the jurisdiction to repay the loan within the time period specified in section 421.30 of the Code.

In the event the reassessment expense fund committee denies a request for a loan or approves a loan in an amount less than that requested by the assessing jurisdiction, the assessing jurisdiction may, within ten days of receipt of notice of the committee's decision, request the committee to reconsider the original request. Such reconsideration by the committee shall be considered final action on the matter and the committee's final decision may be appealed to the district court.

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CHAPTER 121
Reserved

TITLE XVII
ASSESSOR EDUCATION COMMISSION

CHAPTER 122
ADMINISTRATION

730—122.1(441) Establishment. Section 441.8 of the Code established an Assessor Education Commission, hereinafter referred to as the commission. The commission consists of seven members: The director of revenue, two Iowa assessors appointed by the executive board of the Iowa state association of assessors, one member appointed by the state board of tax review, and three lay members appointed by the governor. The lay members are appointed for terms of four years and the appointments are subject to the approval of two-thirds of the members of the senate.

730—122.2(441) General operation. One of the members shall be selected as chairperson and one as vice-chairperson, each to serve in their capacity for one calendar year. Meetings of the commission may be called by the chairperson or a majority of the members of the commission. Meetings will be chaired by the chairperson or the vice-chairperson in the absence of the chairperson. A majority of the members of the commission must be present to constitute a quorum. A majority decision by those members present shall govern and control. The commission will meet at least once each year.

This rule is intended to implement section 441.8 of the Code.

730—122.3(441) Location. While the commission has no offices, persons may obtain information about the commission and its activities at the Department of Revenue in the Hoover State Office Building, Des Moines, Iowa 50319. Persons wishing to obtain information or make submissions should address correspondence to that address.

730—122.4(441) Purpose. The commission is established to develop and administer a program of continuing education for Iowa assessors and deputy assessors. The program will emphasize assessment and appraisal procedures, assessment laws, rights and responsibilities of taxpayers and property owners related to the assessment of property for taxation, duties of assessors and deputy assessors, and other items related to the positions of the assessor and deputy assessor. The commission will designate the courses to be offered in the program, content of the courses, number of hours of classroom instruction and the content and method of testing required for each course. An evaluation of the program will be conducted at least annually with any necessary changes made.

The commission shall certify those assessors and deputy assessors who have received sufficient credit to be eligible for reappointment to his or her present position.

These rules are intended to implement section 441.8 of the Code.

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CHAPTER 123
CERTIFICATION

730—123.1(441) General. In order to successfully complete each course in the continuing education program, an assessor or deputy assessor must attend the sessions of the course and attain a grade of at least seventy percent on an examination given at the conclusion of the course. Credit will be given for each course equal to the number of hours of classroom instruction contained in the course. No credit will be given for a course for which the assessor or deputy assessor has previously received credit during his or her term of office, except for those courses specifically designated by the commission. A term of office for purposes of these rules is six years.

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8.1(3) The supervisor shall review all reports and approve or deny the claim based on available information.

8.1(4) Claims which are approved for payment shall be paid from the support allocation of the department and shall not exceed seventy-five dollars per item.

8.1(5) Vouchers submitted for payment of claims shall be supported with a vendor's invoice of claimant's receipt for expense.

This rule is intended to implement section 217.23(2) of the Code.

[Emergency, filed and effective 9/19/75—published 10/6/75]

CHAPTER 9 RECORDS OF THE DEPARTMENT

770—9.1(217) Definitions.

9.1(1) *Confidentiality.* Confidentiality is the responsible use of, request for, release of or sharing of information regarding a client.

9.1(2) *Client.* Client means individuals applying for or receiving services or assistance from the department. The term "client" shall include former clients of the department concerning whom files or records are maintained by the department.

9.1(3) *Release of information.* Release of information means access to or copying of a file or record in the presence of a designated department employee, in the office of the department in which such file or record is stored. Copying of a file or record shall be done at the expense of the person requesting the copy.

9.1(4) *Proper authorization to release information.* Proper authorization to release information means a written statement which is signed and dated by the client about whom a release of information is sought. The statement shall specify to whom information is to be released; what information is to be released, and the period of time for which the authorization to release information is to be effective.

770—9.2(217) *Client requests.* Upon receipt of a client's written request for release of information, and upon the client furnishing proof of identity to the department employee designated to release such information, the client's file or record shall be released to the client, with the following exceptions.

9.2(1) *Information from other sources.* Information in a client's file or records which has been obtained from a source other than the department or the client, whether from an individual or an agency, and which has been given to the department with the reasonable expectation that such information shall remain confidential from the client, shall not be released to the client. Confidential information received from any source other than the department or the client shall not be released to the client without written permission of the source originally furnishing the information.

9.2(2) *Medical and such information from other sources.* Information such as medical information, psychological and psychiatric evaluations, I.Q. scores, and scores on various educational type tests, which has been provided to the office of the department from which release of information is sought, by another source, whether within or without the department, shall not be released to the client. In cases where release of such information is sought, the client shall be referred to the source which provided the information.

9.2(3) *Hospital and medical records.* Hospitals and medical records of the client which originate with the department, other than psychiatric records, shall be released to the client.

9.2(4) *Psychiatric information of the division of mental health resources.* Psychiatric information of the division of mental health resources, including psychiatric information related to mentally retarded persons, shall be available only to those clients who are not presently receiving treatment and who have not been receiving treatment for the ninety days preceding the date of the request to release information. Such psychiatric information shall be available to qualifying clients only in the form of a synopsis of files and records

pertaining to the client. Such synopsis shall be given to the client at the client's expense. Files and records of the division of mental health resources shall not be released to any client.

a. The synopsis to be prepared pursuant to this rule shall contain reference to, as requested by the client, the dates of entrance and discharge; the condition upon entrance and prognosis upon discharge; a general description of the client's observed behavior and a general description of the method of treatment used. Such synopsis shall not be used as a basis for further treatment.

b. Client request for synopsis of psychiatric information shall be in writing, with specification of the material sought to be included in the synopsis to the superintendent of the facility where the client's records are stored or to the director of the division of mental health resources. The client shall provide a signed, written statement which states that the client is competent to request access to such client's records and that such client is not presently under treatment and has not been under treatment for ninety days. Failure to provide such a statement shall cause the request for release to be denied.

9.2(5) Release of psychiatric information to client's doctor or attorney. Psychiatric information concerning a client may be released to a psychiatrist or other physician designated in writing to be the doctor of the client, or to the attorney of record of said client, upon the presentation of a proper authorization to release information, and upon presentation of proof of professional identity by the person seeking release of the information.

This rule is intended to implement sections 217.6 and 217.30 of the Code.

770—9.3(217) Contested administrative cases. When a client has filed an administrative appeal from a decision of the department of social services in accordance with chapter 17A of the Code, the department shall release the record to the client to examine the contents of such client's case record plus all documents and records to be used by the department at the hearing at reasonable time before the date of the hearing as well as during the hearing. When the appeal is filed under title IV-A, XIX or XX of the Social Security Act the client shall have access to the contents of such client's entire case record. When the appeal is filed under a program administered by the department, but such program is not part of the Social Security Act as set forth above, the client's file shall be released as follows:

9.3(1) Records to be used at the hearing. The household or its representative must be given adequate opportunity to examine all documents and records to be used at the hearing at a reasonable time before the date of the hearing as well as during the hearing. When requested by the household or its representative, the department shall provide a free copy of the portions of the case file that are relevant to the hearing.

9.3(2) Psychiatric information. All psychiatric information contained in the client's case record shall be released only to a doctor or psychiatrist designated in writing to be the representative of said client or the attorney of record for said client.

9.3(3) Identification of third parties. The names of third parties unless said third parties have expressly agreed in writing to waive whatever rights to confidentiality that such parties may possess. The information provided by said third parties is available for inspection by the client unless the release of said information will make the third party readily identifiable to the client.

9.3(4) Submission of information concerning third parties. When the client believes that the disclosure of the name of the third party or the information provided by said third party is necessary to the presentation of the appeal, the same shall be submitted to the hearings officer for such hearings officer's in camera inspection and determination as regards the necessity of releasing said information. The designated representative of the department at the contested case hearing shall be responsible for presenting confidential information to the hearings officer. The decision of the hearings officer shall be final.

9.3(5) Determination of hearing officer. When the determination of the hearing officer is that the name of a third party or the information provided by said third party cannot be released without violating said third party's right to privacy, none of the information provided by said third party can be used as a basis for a decision of the administrative appeal and must be completely disregarded.

This rule is intended to implement sections 17A.13, 17A.22 and 217.30 of the Code.

770—9.4(217) Appeal to district court. Regarding an appeal to a state district court from a final agency decision, the client shall be furnished with a copy of papers filed in support of the client's position, a copy of the transcript of administrative hearing, and the department's decision.

This rule is intended to implement sections 17A.19, 17A.22 and 217.30 of the Code.

770—9.5(217) Information to be released to persons other than a client.

9.5(1) Publications of lists. Publications of lists or names of clients shall be prohibited except as specified in the Iowa Code, section 217.30(4) "c". Persons requesting to examine the report of recipients must sign form PA-3149-0, Requests for Permission to Inspect Public Assistance Lists. The following rules shall apply:

a. No inspector of the lists of clients shall be permitted to remove such lists from the record book provided for the keeping of such lists or from the local office of social services in which such lists are filed.

b. No inspector of the lists shall be permitted to copy or make reproduction of such lists other than to make pencil notes concerning such lists, unless otherwise provided by law.

c. Such lists shall be available for public inspection only during designated business hours of the local office of social services in which such lists are filed.

9.5(2) Public officials.

a. Only the commissioner shall authorize the release of the contents of case records to the Iowa legislature or committees or commissions thereof. Individual legislators shall not have access to case records unless acting under authority given by the legislature by resolution or otherwise or as a member of a committee or commission when such information is needed to advance legislation pending before such committee.

b. Form A-2102, Approval for Release of Information by Iowa Department of Social Services shall be utilized for purposes of communicating approval or rejection of a request for release of information.

9.5(3) Other state agencies. Release of information shall only be to authorized personnel within the requesting agency, and the requesting agency must provide assurance that such information shall be used solely for the purpose for which such information was provided and that such information shall not be released to other persons or agencies.

9.5(4) Charitable organization. Before release of names of clients to charitable or other organizations planning distribution of holiday gifts the department of social services shall secure the consent of the applicant or recipient.

9.5(5) Necessity of authorization from the client. A client shall be requested to sign a release each time information is requested. However, a person which a client has properly authorized to have access to such client's file may, for the period of time during which such client has specified said person may have access, be granted access to such client's file without a further authorization for release from such client.

This rule is intended to implement sections 217.6 and 217.30 of the Code.

[Filed emergency 11/25/75—published 12/15/75, effective 11/25/75]

[Filed 12/17/76, Notice 11/3/76—published 1/12/77, effective 2/16/77]

[Filed 9/6/79, Notice 7/11/79—published 10/3/79, effective 11/7/79]

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CHAPTERS 10 to 15

[Chs 13 to 15, 1973 IDR, rescinded June 11, 1975]

Reserved

TITLE II

CORRECTIONS

CHAPTER 16

[Ch 16, 1973 IDR, rescinded 6/11/75]

Reserved

CHAPTER 17
IOWA STATE PENITENTIARY

770—17.1(218) Definitions.

17.1(1) *Contraband.* Whenever "contraband" is used in these rules, it shall mean weapons, alcohol, drugs, money, obscene materials as defined in section 725.1, paragraph (1), of the Iowa Code, or materials advocating disruption of or injury to inmates, employees, programs, or physical facilities. It shall also include anything which is illegal to possess under the law, or materials which are used in the production of drugs or alcohol or used in conjunction with the taking of illicit drugs.

17.1(2) *Immediate family.* Whenever "immediate family" is used in these rules, it shall mean spouse, child, parent, brother, sister, natural grandparents and legal guardian.

770—17.2(218) Visiting.

17.2(1) Visiting hours are 8:00 a.m. to 4:00 p.m. Monday and Wednesday through Friday and 8:00 a.m. to 8:00 p.m. Saturday and Sunday.

a. Weekday visits shall terminate after a maximum of four hours or at the conclusion of visiting hours, whichever comes first.

b. Weekend or holiday visits shall terminate after a maximum of three hours or at the conclusion of visiting hours, whichever comes first. Visits may be extended at the warden's or designee's discretion when visitors are from great distances or when able to make only rare visits.

17.2(2) Persons wishing to visit inmates must be on an approved visiting list prior to the visit.

a. Applications for visiting privileges may be obtained by contacting the inmate's correctional counselor and shall be completed and returned to the institution.

b. Applicant shall be notified within thirty days as to approval or disapproval and reason given when disapproved.

c. Persons not on the approved list may be granted a special visiting pass at the discretion of the warden or designee.

d. Ex-felons must have prior approval from the warden to visit.

e. Visitors fifteen years of age or younger shall be accompanied by an approved adult. Such adult shall be responsible for the behavior of the child.

f. Visitors ages sixteen and seventeen may visit alone when the parent provides written permission for the visit and a statement of approval in advance of the visit.

17.2(3) Approved visitors may be allowed four visits per month.

a. Newly admitted inmates shall not have visitors during the first fourteen days of incarceration except at the discretion of the warden or designee.

b. Transferees from other correctional facilities shall not have visitors during the first two days at this facility except at the discretion of the warden or designee.

17.2(4) Visitors must have proper identification. Signature cards may be required from visitors.

17.2(5) Periodic personal searches shall be conducted by institutional staff or by electronic detecting devices to detect contraband. Criminal charges shall be filed against individuals who attempt the introduction of contraband. Refusal to comply with such search shall be basis for denial of visiting privileges.

17.2(6) Visitors shall not be admitted when the apparent odor or effect of alcohol or a narcotic drug is detected.

17.2(7) Visitors must be appropriately attired and not wear suggestive clothing styles.

17.2(8) An individual on the approved visiting list of one inmate shall not concurrently be on the approved visiting list of another inmate unless so approved by the warden or designee. Exception shall be made when immediate family members are confined. Persons approved for participation in group volunteer program activities are not allowed to be on an individual inmate's visiting list, except with the permission of the warden or designee.

holidays from 8:00 a.m. to 8:30 p.m. Friday, Saturday and Sunday. Visits shall be limited to four hours in length. A patient will only be available for a visit when not actively involved in a scheduled treatment program.

20.2(2) The attorney of record must present identification to prove identity and whom such attorney represents to institutional staff prior to gaining entrance. Bureau of criminal investigation agents, federal bureau of investigation agents, law enforcement officials and clergy must present proof of their identity and whom they represent to institutional staff prior to gaining entrance. The patient must express a desire to visit clergy before admission.

20.2(3) The name of each person authorized to visit must be on the patient's approved visiting list.

a. Relatives shall obtain approval from the social worker in the patient's treatment unit before being placed on the approved visiting list. Friends shall only be allowed to visit when the social worker determines the visit would be of therapeutic value.

b. Persons not on the approved visiting list may be granted a special visiting pass by the patient's social worker.

c. Any disruptive behavior on the part of a patient or visitor shall result in denial or termination of the visit.

d. Visitors may be requested to submit to a search. When the visitor is not willing to submit to a search upon request, the visit shall be denied.

e. Visitors shall not be permitted to visit when the apparent odor or effect of alcohol or narcotic drugs is detected.

f. Visits may be denied or terminated for reasons of health of the patient or visitor.

20.2(4) Visiting procedures may be temporarily modified in the following circumstances: Riot, disturbance, fire, labor dispute, space restrictions, natural disaster or other extreme emergency.

20.2(5) Failure to adhere to the rules shall result in loss of visiting privileges. Visiting privileges can be reinstated only at the discretion of the superintendent.

20.2(6)* The institution will not be liable for injury to guests or visitors nor responsible for loss of personal property.

20.2(7) All visitors may be required to be photographed for future identification purposes only.

20.2(8) Only members of the immediate family may purchase meal tickets and have meals with the patient. Friends may purchase meal tickets only when approved by the social worker.

770—20.3(218) Interviews and statements.

20.3(1) When patients are selected to be interviewed and photographed within the hospital, either singly or part of a group, identifiable interviews or pictures shall require the written consent of the patient involved as well as prior consent of the unit director.

20.3(2) The superintendent has the responsibility for all communications with mass media.

770—20.4(218) Mail and packages.

20.4(1) All correspondence shall be inspected for contraband. Mail shall be read when there is probable cause to believe or to suspect abuse of correspondence or a threat to the good sense of order and security of the hospital.

20.4(2) Patients are permitted to send sealed letters to a specified group of individuals. Mail to these persons shall not be opened or inspected. Mail from these persons may be opened only for inspection for contraband or to be assured the contents are from the return addressee. Confidential letters may be written to officers of federal, state, or municipal courts, any federal or state official, the commissioner of the department of social services, any official of the division of correctional institutions or the division of community services, or any member of the board of parole, the attorney of record, the office of the citizen's aide (letters received from this office shall not be opened by law), and the civil rights commission

*Objection, see filed rules published IAC Supp 11/3/75, 12/1/75

of Iowa.

20.4(3) Persons under the age of eighteen must have permission from their parents before correspondence is permitted with a patient. When the registrar has some question as to the age of person with whom a patient is corresponding, a questionnaire will be sent to determine age, and, if necessary, parental permission.

20.4(4) Guidelines for books, magazines, and publications which should not be sent and will not be given to patients include, but are not limited to:

a. Material which would cause a substantial interference with patient treatment.

b. Materials which would assist individuals in developing escape plans, making or using explosives, weapons, synthetic drugs and similar articles.

c. Material advocating or suggesting injury or damage to personnel, property or programs of the hospital.

d. Obscene and licentious materials.

20.4(5) The institution will not be responsible for lost or damaged goods sent into the institution.

770—20.5(218) Donations. Donations of money, books, games, recreation equipment or other such gifts shall be made directly to the superintendent. The superintendent shall evaluate the donation in terms of the nature of the contribution to the hospital program. The superintendent shall be responsible for accepting the donation and reporting the gift to the director, division of correctional institutions, in the Iowa department of social services.

770—20.6(218) Tours. Tours shall be limited to adults and to small groups whose interests are relative to patient treatment as deemed appropriate by the superintendent.

These rules are intended to implement section 218.4 of the Code.

[Filed 10/17/75, Notice 8/11/75—published 11/3/75, effective 12/8/75]

[Filed 4/30/76, Notice 3/22/76—published 5/17/76, effective 6/21/76]

[Filed 3/31/78, Notice 2/8/78—published 4/19/78, effective 5/24/78]

[Filed 12/6/78, Notice 10/4/78—published 12/27/78, effective 1/31/79]

CHAPTER 21 RIVERVIEW RELEASE CENTER

770—21.1(218) Definitions.

21.1(1) Contraband. Whenever "contraband" is used in these rules, it shall mean weapons, alcohol, drugs, obscene materials as defined in section 725.1, paragraph (1), of the Iowa Code, or material advocating disruption of or injury to residents, employees, programs, or physical facilities. It shall also include anything which is illegal to possess under the law, materials which are used in the production of drugs or alcohol or used in conjunction with the taking of illicit drugs.

21.1(2) Immediate family. Whenever "immediate family" is used in these rules, it shall mean spouse, child, parent, brother, sister, natural grandparents or legal guardian.

770—21.2(218) Visiting.

21.2(1) Visiting hours shall be established by the superintendent, but minimum hours are from 10:00 a.m. to 4:00 p.m. on Saturdays, Sundays and holidays and from 5:00 p.m. to 10:00 p.m. Monday through Friday. For visiting purposes, the week begins on Sunday. An approved visitor may visit twice per week, once on a weekday and once on the weekend.

21.2(2) Only individuals approved to visit shall do so.

21.2(3) To obtain visiting approval, an individual must submit a completed questionnaire to the superintendent. After an investigation, visiting approval shall be granted at the discretion of the superintendent or designee.

a. Ex-felons must have prior approval from the superintendent to visit. Former inmates of correctional institutions must have demonstrated two years of successful behavior in the community prior to making application. Exceptions may be made for immediate family members.

770—21.6(218) Incoming phone calls.

21.6(1) Inmates shall not be called to the phone. The caller may leave a message and the inmate may return the call when it has been approved by the counselor.

21.6(2) Phone calls may be limited to matters that cannot be handled by letter correspondence.

21.6(3) Phone calls may be limited by the superintendent either to frequency or length.

770—21.7(218) Tours.

21.7(1) Tours of institutional facilities are available primarily for adult groups. In special cases, tours may be granted for persons under age eighteen at the discretion of the superintendent.

21.7(2) Prior approval from the superintendent is required for relatives or close friends of inmates to tour the institution.

770—21.8(218) Trips of inmates. An outside group wishing an institution's organization to make a trip shall send a written request to the institution. Trips are limited to a one hundred mile radius. Permission may be granted for longer trips at the discretion of the superintendent.

770—21.9(218) Donations. Donations of money, books, games, recreation equipment or other such gifts shall be made directly to the superintendent. The superintendent shall evaluate the donation in terms of the nature of the contribution to the institution program. The superintendent shall be responsible for accepting the donation and reporting the gift to the director, division of community services, in the Iowa department of social services.

These rules are intended to implement section 218.4 of the Code.

[Filed 10/17/75, Notice 8/11/75—published 11/3/75, effective 12/8/75]

[Filed 4/30/76, Notice 3/22/76—published 5/17/76, effective 6/21/76]

[Filed 5/24/77, Notice 3/23/77—published 6/15/77, effective 7/20/77]

[Filed 1/16/78, Notice 11/30/77—published 2/8/78, effective 3/15/78]

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[Filed 7/17/78, Notice 5/31/78—published 8/9/78, effective 9/13/78]

[Filed 9/6/79, Notice 6/27/79—published 10/3/79, effective 11/7/79]

CHAPTER 22 MT. PLEASANT MEDIUM SECURITY FACILITY

770—22.1(218) Definitions.

22.1(1) *Contraband.* Whenever "contraband" is used in these rules, it shall mean weapons, alcohol, drugs, money, obscene materials as defined in section 725.1 paragraph (1) of the Iowa Code or materials advocating disruption of or injury to inmates, employees, programs, or physical facilities. It shall also include anything which is illegal to possess under the law, or materials which are used in the production of drugs or alcohol or used in conjunction with the taking of illicit drugs.

22.1(2) *Immediate family.* Whenever "immediate family" is used in these rules it shall mean spouse, child, parent, brother, sister, natural grandparents, and legal guardian.

770—22.2(218) Visiting.

22.2(1) All persons wishing to visit an inmate shall be placed on an approved visiting list prior to the visit. An application to visit shall be completed and returned to the institution.

a. Applicants shall be notified within thirty days as to approval or disapproval and reason given when disapproved.

b. All visitors must have proper identification. Signature cards may be required from visitors.

- c. Visitors must be appropriately attired and not wear suggestive clothing styles.
- d. Visitors shall not be admitted when the apparent odor or effect of alcohol or a narcotic drug is detected.
- e. Periodic personal searches shall be made by insitutional staff to prevent the entry of contraband. Criminal charges shall be filed against individuals who attempt the introduction of contraband. Refusal to comply with such search will be the basis for denial for visiting privileges.
- f. Visitors shall not give any article to inmates during a visit. Money may be left at the mental health institute business office during business hours.

g. Ex-felons shall have prior approval from the superintendent's office to visit.

22.2(2) Visitors fifteen years of age and younger shall be accompanied by an approved adult. Visitors sixteen and seventeen may visit alone when the parent or guardian writes for advance permission for the child to visit and provides a statement of approval.

22.2(3) Visiting hours are Wednesday, Friday, and Sunday from 9:00 a.m. to 4:00 p.m. and Tuesday, Thursday, and Saturday from 12:00 noon to 8:00 p.m. Residents will be permitted unrestricted visits through week, and on weekends and holidays they will be limited to three hours in length. An individual on the approved visiting list of one resident shall not concurrently be on the approved visiting list of another resident unless so approved by the superintendent or designee. Exceptions shall be made when immediate family members are confined. Persons approved for participation in group volunteer program activities are not allowed to be on an individual resident's visiting list except with the permission of the superintendent or designee.

22.2(4) Visiting procedures may be temporarily modified in the following circumstances: Riot, disturbance, fire, labor dispute, space restrictions, natural disaster or other extreme emergency.

22.2(5) Failure of any visitor to abide by these rules will result in the loss of visiting privileges for such visitor. Visiting privileges can be reinstated only at the discretion of the superintendent.

22.2(6) The institution will not be liable for injury to guests or visitors nor responsible for loss of personal property.

22.2(7) All visitors may be required to be photographed for future identification purposes.

770—22.3(218) Guests of institution.

22.3(1) Persons wishing to visit the insitution shall give prior notice of their intended visit and receive approval for the visit. Such prior notice and approval may be waived for emergencies by a department head. Any guest shall agree to comply with the policy and procedures of the institution when signing in at the control center.

a. Guests attending insitution activities must be at least ten years of age. Persons under eighteen years of age shall be accompanied by a responsible adult. No adult shall have in charge more than four children.

b. Female guests shall be escorted by a staff member.

22.3(2) Persons outside of the institution shall be allowed personal contact with a resident only when it serves the best interests of such resident as determined by the superintendent.

a. All contact with residents shall be absent of any encouragement, support or suggestion of activity which would bring disorder to the institution. Any person that encourages a resident to ignore institutional regulations shall be expelled from the institution.

b. Legal papers are the only items that can be given to or taken from a resident without approval from a department head.

c. Interruption by a guest of insitutional programs which are part of the rehabilitation of the resident shall be kept to a minimum.

d. Any persons who have personal involvement with a resident of an intimate nature or gives the appearance of being overly familiar beyond any therapeutic goal may be excluded

30.1(3) The resident shall only be available when the resident is not actively involved in a scheduled treatment activity.

30.1(4) A visit shall be terminated when behavior on the part of the resident or visitor is disruptive to the resident's treatment plan.

30.1(5) Visitors wishing to take a resident off grounds shall obtain prior approval from the resident's treatment team social worker or designee.

This rule is intended to implement 218.4 of the Code.

770—30.2(222) Liability for support. The liability of any person, other than the patient, who is legally bound for the support of any patient under eighteen years of age shall be determined in the same manner as parent liability in rule 770—137.1(234), except that the maximum liability shall not exceed the standards for personal allowances established by the department under the aid to dependent children program.

This rule is intended to implement section 222.78 of the Code.

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CHAPTERS 31 to 39

[Chs 33 and 34, 1973 IDR, rescinded June 11, 1975]

Reserved

TITLE IV
AID TO DEPENDENT CHILDREN

CHAPTER 40
APPLICATION FOR AID

770—40.1(239) Definitions.

40.1(1) Whenever "*the department*" is used in this title it shall mean the Iowa department of social services.

40.1(2) Whenever "*the local office*" is used in this title it shall mean the local office of the department of social services.

40.1(3)* Whenever "*child*" is used in this title, it shall include the unborn child in the last trimester of pregnancy.

This rule is intended to implement section 239.3 of the Code.

770—40.2(239) Application. The application for aid to dependent children shall be submitted on Public Assistance Application, Form PA-2207-0. The application shall be signed by the applicant, the applicant's authorized representative, or, when the applicant is incompetent or incapacitated, someone acting responsibly on the applicant's behalf. When both parents are in the home, both shall sign the application. When a stepparent is in the home, both the parent and stepparent shall sign the application when either's needs are included in the grant.

40.2(1) Each individual wishing to do so shall have the opportunity to apply for assistance without delay. When the parent is in the home with the child and is not prevented from acting as payee by reason of physical or mental impairment, such parent shall make the application.

40.2(2) An applicant may be assisted by other individuals in the application process; the client may be accompanied by such individuals in contact with the local office, and when so accompanied, may also be represented by them. When the applicant has a guardian, the guardian shall participate in the application process.

40.2(3) The applicant shall immediately be given an application form to complete. When the applicant requests that the forms be mailed, the local office shall send the necessary forms in the next outgoing mail.

40.2(4) A new application shall be made whenever a person is added to the eligible group or when a stepparent becomes a member of the household.

40.2(5) Except as specified in 40.2(4), assistance shall be reinstated without a new application when eligibility is regained prior to the effective date of cancellation.

This rule is intended to implement section 239.3 of the Code.

*Emergency after Notice, pursuant to §17A.5(2)"b"(1) of the Code.

70—40.3(239) Date of application. The date of application is the date an identifiable Public Assistance Application, Form PA-2207-0, is received in the county. An identifiable application is an application containing a legible name and address, that has been signed. This rule is intended to implement section 239.3 of the Code.

770—40.4(239) Procedure with application. The decision with respect to eligibility shall be based primarily on information furnished by the applicant. The county shall notify the applicant in writing of additional information or verification that is required to establish eligibility for assistance. Failure of the applicant to supply such information or refusal to authorize the county department to secure such information from other sources shall serve as a basis for denial of assistance. Five working days shall be considered as a reasonable period for the applicant to supply the required information or verification. Any time taken beyond the five days shall be considered a delay on the part of the applicant. The decision with respect to eligibility shall be based on the applicant's eligibility or ineligibility on the date the decision is made in the local office.

This rule is intended to implement section 239.4 of the Code.

770—40.5(239)* Time limit for decision. The applicant shall receive a money payment or a written notice of denial within thirty days from the date of application. Such time standard shall apply except in unusual circumstances, such as when the local office cannot reach a decision because of failure or delay on the part of the applicant or an examining physician, or because of some administrative or other emergency that could not be controlled by the county.

This rule is intended to implement section 239.4 of the Code.

70—40.6(239) Effective date of grant. The effective date of the grant shall be the date of application or the date the client becomes eligible, whichever is later.

This rule is intended to implement section 239.5 of the Code.

*Emergency after Notice, pursuant to §17A.5(2)"b"(1) of the Code.

770—40.7(239) Continuing eligibility.

40.7(1) A review of all eligibility factors shall be made no less frequently than:

- a. Every six months for aid to dependent children cases.
- b. Every six months for aid to dependent children foster care cases.
- c. Every three months for aid to dependent children unemployed father cases.

40.7(2) A redetermination of specific eligibility factors shall be made when:

- a. Requested by the recipient.
- b. A change in the recipient's circumstances comes to the attention of a staff member.
- c. The worker's previous experience with and knowledge of the case indicates a more frequent contact with the recipient to determine continued eligibility and the correctness of the assistance grant.
- d. When the central office of the department of social services selects certain factors of eligibility for a more frequent review because of the error rate.

40.7(3) Information for reviews shall be submitted on form PA-2227-5, Aid to Dependent Children Review. The review form shall be signed by the payee, the payee's authorized representative, or, when the payee is incompetent or incapacitated, someone acting responsibly on the payee's behalf. When both parents are in the home, both shall sign the review form. When a stepparent is in the home, both the parent and stepparent shall sign the review form when either's needs are included in the grant.

40.7(4) Timely reporting.

a. The recipient shall timely report any changes in the following circumstances:

- (1) Income from all sources, including any change in the expense of earning an income.
- (2) Resources.
- (3) Members of the household.
- (4) School attendance.
- (5) Recovery from incapacity.
- (6) Change of mailing or living address.
- (7)* Termination of pregnancy.

b. A report shall be considered timely when made within ten days from:

- (1) The receipt of resources, income, or increased or decreased income.
- (2) The date work expenses increase or decrease.
- (3) The date the address changes.
- (4) The date the child is officially dropped from the school rolls.
- (5) The date a person enters or leaves the household.
- (6) The date medical or psychological evidence indicates a recovery from incapacity.
- (7)* The date the pregnancy terminates.

c. When a change is not timely reported, any excess assistance paid shall be subject to recovery.

40.7(5) After assistance has been approved, eligibility for continued assistance and the amount of the grant shall be effective as of the first of each month. Any change reported during a month shall be effective the first day of the next calendar month except:

a. Payment shall be made for the month of report when the recipient timely reports, as defined in 40.7(4), a change and such change occurred prior to the month of report.

b. Payment is later in those cases where issuance of a timely notice, as required by the department's rule 7.6(217), necessitates postponement of the action to the first day of the second calendar month.

This rule is intended to implement section 239.18 of the Code.

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*Emergency after Notice, pursuant to §17A.5(2)"b"(1) of the Code.

e. A person on conditional release or convalescent leave from a mental health institution is not considered to be a patient in such an institution.

41.3(4) Temporary absence.

a. Temporary absence from the state, of either the child or the parent or other relative, with intent to return when the purpose of the absence has been accomplished, shall not be considered to have interrupted residence.

b. Assistance shall be continued to the recipient with whom the child has been living when the child leaves the home for a temporary period, provided the recipient maintains control over the child during such absence.

c. When the child is out of the home to secure education or training, assistance shall continue as long as the relative retains supervision of the child. The child must remain a member of the relative's family group and return to the home periodically. This rule shall not apply to a child in a foster care arrangement.

This rule is intended to implement section 239.2 of the Code.

770—41.4(239) Work incentive program registration. Each member of the eligible group must register for the work incentive program unless the local office determines such person is exempt.

41.4(1) Exemptions. The following persons are exempt from registration.

a. A child who is under the age of sixteen or between the ages of sixteen and twenty-one and attending school full time.

b. A person over the age of sixty-five or who is prevented from engaging in employment or training because of a temporary or permanent medically determinable physical or mental impairment. Medical evidence may be obtained from either an independent physician or psychologist or the state rehabilitation agency in the same manner specified in subrule 41.1(5)"c".

c. A person who lives so far away from any work incentive program project that such person cannot effectively participate. The individual is exempt if more than a total of ten hours would be required for a normal work or training day, including a round trip by reasonably available public transportation or automobile from home to the project. Persons in areas without a work incentive program project are considered exempt.

d. A person required in the household on a substantially continuous basis because of a medically determinable condition of another member of the household. Such condition shall be established in the same manner as specified in subrule 41.1(5)"c".

e. * A mother or other eligible caretaker relative of a child under the age of six who is caring for the child. A pregnant applicant or recipient in the last trimester of pregnancy is considered to be the mother of a child under the age of six.

f. A mother or other female caretaker of a child, where the father or another male relative in the home is required to be registered.

41.4(2) Changes in status. Any exempt person shall report any change affecting the exempt status to the income maintenance worker within ten days of the change.

41.4(3) Volunteers. Any person who is determined exempt may volunteer for registration.

41.4(4) Registration. Any mandatory or voluntary registrant shall be referred to the job service of Iowa for completion of the registration forms.

41.4(5) Referral to vocational rehabilitation. Any person determined exempt from registration because of a medically determinable physical or mental impairment shall be referred to the rehabilitation and education service bureau. Acceptance of vocational rehabilitation services is optional with the client.

41.4(6) Refusal to register. The needs of any mandatory registrant who refuses to register shall be excluded from the assistance grant. A person who has signed the registration form, but has consistently failed to appear for appraisal shall be deemed as refusing to register.

41.4(7) Refusal to participate. When job service of Iowa determines that a mandatory registrant refused to participate in training or accept a bona fide offer of employment without good cause, the department shall initiate a sixty-day counseling period. When the

*Emergency after Notice, pursuant to §17A.5(2)"b"(1) of the Code.

individual is still unwilling to participate, such individual's needs shall not be paid in the assistance grant, and when such individual is the payee the county shall appoint a protective payee or establish a vendor payment arrangement.

a. When an individual has been removed from the work incentive program because of refusal to participate, such individual may register again when:

(1) Three aid to dependent children monthly assistance warrants have elapsed subsequent to the reduction or termination of aid to dependent children benefits.

(2) The individual has provided evidence of willingness to participate in the work incentive program.

b. When an individual refuses to participate without good cause a second time, reregistration shall not take place until:

(1) Six aid to dependent children monthly assistance warrants have elapsed subsequent to the reduction termination of aid to dependent children benefits.

(2) The individual has provided evidence of willingness to participate in the work incentive program.

This rule is intended to implement section 239.5 of the Code.

770—41.5(239) Uncategorized factors of eligibility.

41.5(1) *Divesting of income.* Assistance shall not be approved when an investigation proves that income was divested and the action was deliberate and for the primary purpose of qualifying for assistance or increasing the amount of assistance paid.

41.5(2) *Duplication of assistance.* No person whose needs are included in an aid to dependent children grant shall concurrently receive a grant under any other public assistance program administered by the department. Neither shall such person concurrently receive a grant from a public assistance program in another state. When a child leaves the home of a specified relative, no payment for a concurrent period shall be made for the same child in the home of another relative.

41.5(3) *Aid from other funds.* Supplemental aid from any other agency or organization shall be limited to aid for items of need not covered by the department's standards and to the amount of the percentage reduction used in determining the payment level. Any duplicated assistance shall be considered unearned income.

41.5(4) *Contracts for support.* A person entitled to total support under the terms of an enforceable contract is not eligible to receive aid to dependent children when the other party, obligated to provide such support, is able to fulfill that part of the contract.

This rule is intended to implement section 239.2 of the Code.

770—41.6(239) Resources.

41.6(1) *Limitation.* An applicant or recipient may have the following resources and be eligible for aid to dependent children. Any resource not specifically exempted shall be counted toward resource limitations.

a. A homestead without regard to its value. A mobile home or similar shelter shall be considered as a homestead when it is occupied by the recipient. Temporary absence from the homestead with a defined purpose for the absence and with intent to return when the purpose of the absence has been accomplished shall not be considered to have altered the exempt status of the homestead. The net market value of any other real property shall be considered with personal property.

b. Household goods and personal effects without regard to their value. Personal effects are personal or intimate tangible belongings of an individual, especially those that are worn or carried on the person, which are maintained in one's home, and include clothing, books, grooming aids, jewelry, hobby equipment, and similar items.

c. Life insurance not to exceed \$1000 in face value multiplied by the number of eligible persons. However, when the face value exceeds these limitations, the cash value shall be substituted for the face value in determining whether the insurance is within the limitations.

b. Refused without good cause to accept a bona fide offer of employment in which such individual is able to engage.

This rule is intended to implement section 239.5 of the Code.

770—41.8(239) Need standards.

41.8(1) *Definition of the eligible group.* The eligible group shall include the following persons living together, except when one or more of these persons has elected to receive supplemental security income under Title XVI of the Social Security Act or the applicant or recipient has elected to exclude an eligible child as specified under subrule 44.8(2).

a. The eligible children.

b. The natural or adoptive parent, or both parents if one is incapacitated or if the father is partially or totally unemployed. Paternity of the biological father shall be established by the court before a father who is not the legal father of the child is added to the eligible group.

c. The needy relative who assumes the role of parent.

d. The needy relative who acts as payee when the parent is in the home, but is unable to act as payee.

e. The stepparent when he or she is the legal spouse of the natural or adoptive parent by ceremonial or common law marriage and such stepparent is required in the home to care for the dependent children or the incapacitated parent. Such services must be required to the extent that if the stepparent were not available, it would be necessary to pay for the care of the children or the incapacitated parent by inclusion of an allowance in the assistance grant.

1. The first step in the process of the development of a new product is the identification of a market need. This is often done through market research, which can be conducted in a variety of ways, including surveys, focus groups, and interviews. The goal of market research is to determine what customers want and need, and to identify any gaps in the market.

2. Once a market need has been identified, the next step is to develop a concept for a new product. This involves brainstorming ideas and creating a prototype. The prototype is a physical model of the product that can be used to test the concept and gather feedback from potential customers.

3. The third step in the process is to conduct a feasibility study. This involves evaluating the technical, financial, and market viability of the product. The study should take into account the costs of development, production, and distribution, as well as the potential for sales and profit.

4. If the feasibility study is positive, the next step is to develop a business plan. This document outlines the company's strategy for developing and marketing the product, and it provides a detailed financial forecast. The business plan is used to secure funding from investors and to guide the company's operations.

5. The final step in the process is to launch the product. This involves creating a marketing campaign to promote the product and to attract customers. The campaign should be tailored to the target market and should include a variety of promotional activities, such as advertising, public relations, and sales promotions.

6. After the product has been launched, the company should continue to monitor its performance and to gather feedback from customers. This information can be used to make improvements to the product and to develop new products in the future.

41.8(2)* Basic needs. The schedule of basic needs is used to determine the basic needs of those persons whose needs are included in and are eligible for an aid to dependent children grant, except for the unborn child in the last trimester of pregnancy. The eligible group is considered a separate and distinct group without regard to the presence in the home of other persons, regardless of relationship to or whether they have a liability to support members of the eligible group. The schedule of basic needs is also used to determine the needs of persons not included in the assistance grant, but who may have an obligation to contribute their income over and above their needs to the persons in the eligible group. The schedule of basic needs represents one hundred percent of basic needs.

SCHEDULE OF BASIC NEEDS

Number of Persons	1	2	3	4	5	6	7	8	9	10	Each additional Person
Amount	154	292	360	419	464	516	567	618	669	731	73

CHART FOR DETERMINING INCOME IN KIND (all figures are on a per person basis)

Number of Persons	1	2	3	4	5	6	7	8	9	10 or more
Shelter	44.08	43.80	31.03	24.93	20.40	17.41	15.31	13.83	12.55	12.17
Utilities	23.90	21.77	14.76	11.40	9.16	7.65	7.13	6.30	5.70	5.55
Supp. & Repl.	10.09	7.43	5.04	3.90	3.34	2.83	2.43	2.16	1.93	1.85
Food	41.42	43.27	41.89	38.45	34.99	33.97	32.80	32.31	32.07	31.74
Clothing	11.94	12.75	12.72	12.73	12.62	12.50	12.32	12.05	12.03	11.90
Per. Care & Supp.	7.17	7.43	7.68	7.69	7.52	7.40	7.15	7.10	6.68	6.61
Med. Cab. Sup.	1.59	1.59	1.59	1.59	1.59	1.59	1.59	1.59	1.59	1.59
Communications	13.81	7.96	5.29	3.98	3.18	2.65	2.27	1.99	1.77	1.59

a. When a child is attending the Iowa Braille and Sight Saving School or the Iowa School for the Deaf, such child's needs shall be included in the grant if otherwise eligible.

b. When a child is receiving social security benefits or other governmental benefits similarly restricted by law to the child's use and benefit alone, the payee shall have the choice of whether or not that child is included in the eligible group. When such child is not included in the eligible group, the child shall be allowed to meet such child's needs from the child's income according to the schedule of living costs. The remainder shall be conserved for the future needs of the child.

*Emergency after Notice, pursuant to §17A.5(2)"b"(1) of the Code.

c. The needs of a child in a nonparental home when the relative is not a member of the eligible group shall be the needs of a one person eligible group.

d. When the unmarried payee under the age of eighteen is living with a parent or parents who does not receive aid to dependent children, only the needs of the eligible children shall be included in the assistance grant. When the payee under the age of eighteen lives with a parent or parents who receives aid to dependent children, the needs of the payee, when eligible, shall be included in the same eligible group with the parent or parents. The needs of the eligible children for whom such payee is caretaker shall be considered a separate eligible group.

e. Reserved.

f. When a person who would ordinarily be in the eligible group has elected to receive supplemental security income benefits, such person, income and resources, shall not be considered in determining aid to dependent children benefits for the rest of the family.

g. When a child is under the age of eighteen, not attending school, and has income such child will not make available to the eligible group, the payee shall have the choice of whether or not that child is included in the eligible group. When the child is not included, such child, income, and resources, shall not be considered in determining aid to dependent children benefits for the rest of the family.

h. When a child is receiving child support payments from an absent parent, the payee shall have the choice of whether or not that child is included in the eligible group. When such child is not included in the eligible group, the child shall be treated in the same manner as specified in subrule 41.8(2)"b".

i. When the payee does not wish a referral to the child support recovery unit to be made, the payee shall have the choice of whether or not the child for whom the referral is to be made is included. When such child is not included, the child, income, and resources, shall not be considered in determining aid to dependent children benefits for the rest of the family.

j. When a member of the eligible group is temporarily out of the home to receive nursing care, payment for such care shall be made under rules established for such programs. The aid to dependent children grant shall be figured as if the person were in the home; the allowances, as determined by the chart for determining income in kind, or food, clothing, personal care and supplies, medicine chest supplies, and communications, subtracted; and the personal allowance for the nursing care program added.

k. When two individuals, married to each other, are living in a common household and the children of each of them are recipients of assistance, the assistance grant shall be computed on the basis of their comprising one eligible group. This rule shall not be construed to require that an application for assistance be made for children who are not the natural or adoptive children of such applicant.

l.* A payment of \$10.00 per month shall be made for an unborn child in the last trimester of pregnancy. The pregnancy shall be verified in writing by a licensed physician. The verification shall attest to the fact of pregnancy and project an expected date of delivery. When an examination is required and other medical resources are not available to meet the expense of the examination, the physician shall be authorized to make the examination and submit the claim for payment. Each pregnancy shall be considered for assistance purposes as involving only one child, even though the physician's statement may indicate a possibility of multiple births.

41.8(3) *Special needs.* On the basis of demonstrated need the following special needs shall be allowed, in addition to the basic needs.

a. *Property repair.* When the department agrees that repairs or improvements exceeding \$25.00 are necessary to make or keep the recipient's homestead habitable, an allowance shall be approved.

*Emergency after Notice, pursuant to §17A.5(2)"b"(1) of the Code.

In order to be approved, the following conditions shall be met:

(1) The homestead shall be owned in whole or in part by a member or members of the eligible group; or be owned in whole or in part by the parent with whom the child is living, when such parent would be a member of the eligible group, but the only reason the parent is excluded from the eligible group is because the parent received supplemental security income benefits, or the parent refuses to co-operate with the department in the work incentive program, or the parent refuses to co-operate in establishing paternity or securing support payments.

(2) The recipient shall apply for available benefits from local housing programs before consideration is given to approving a special allowance. Any assistance from such programs shall be deducted from the special allowance.

(3) A special allowance for property repair shall be approved only when the recipient is able to and intends to continue living in the homestead property.

(4) An allowance shall be approved only when the recipient's equity in the property is equal to or more than the total of the cost of the repair requested, the cost of any other repairs currently needed, and the amount of any previous special allowances for property repair of the current homestead.

(5) When repairs are needed as a result of fire, water damage, or windstorm, an allowance shall be approved only after the availability of insurance or other resources is determined.

(6) The recipient shall obtain a minimum of two competitive bids when the cost of the property repair will exceed \$200. In those communities in which only one provider is available to do the necessary repairs and payment would be required to obtain the second bid, the requirement for the second bid shall be waived.

(7) When a loan is available to meet the cost of the property repair, the monthly installments for repayment of the loan (amortization payments) shall be approved.

(8) In emergency situations when the recipient's life or health would be jeopardized by a delay in making the repair, conditions 41.8(3)"a"(2), (3), and (6) may be waived.

b. Tree removal. When a legal notice has been served on a recipient property owner requiring the removal of dead or dangerous trees from the homestead an allowance shall be included in the grant to cover the lowest established cost.

c. Special tax assessment. An allowance sufficient to cover the annual payment due on an assessment on a homestead shall be included in one month's grant.

d. School expenses. Any specific charge, excluding tuition, for a child's education made by the school or in accordance with school requirements in connection with a course in the curriculum or a school administered extracurricular activity shall be allowed provided the allowance shall not exceed the reasonable cost required to meet the specifications of the course or activity, and the student is actually participating in the course or activity at the time the expense is claimed. This does not include ordinary expenses for school supplies.

e. Child care. When a need is established for child care by reason of a caretaker's health, enforced absence from the home, or for some other emergent and compelling reason beyond the control of the child's caretaker, other than for reasons of employment, an allowance for child care not to exceed the going rate in the community shall be made. The actual cost of the child care shall be allowed when the going rate in the community has not been determined. Need for the child care allowance shall be established only under the following conditions:

(1) When the condition or absence of the caretaker precludes adequate care of the child, and

(2) When there is an absence or inability of any other household member to care for the child.

j. Personal services. An allowance for personal services may be allowed only when the physical or mental condition of the adult recipient prevents the performance of those tasks necessary to daily living or because of lack of skill needs assistance in household maintenance or management. No allowance shall be made for those services only indirectly related to the individual's welfare such as yard work, snow shoveling, errands and seasonal or irregular housecleaning. No payment shall be made to a member of the eligible group to provide such services. When required, an allowance may also be made to cover the employer's share of the social security tax. The payment for personal services shall be the actual charge, not to exceed \$73.00 a month for each member of the eligible group or a grant total of \$292.00. Need for the personal services allowance shall be established only under the following conditions:

(1) The condition or absence of the adult recipient precludes such adult performing those tasks necessary to daily living, and

(2) There is an absence or inability of any other household member to perform the tasks.

41.8(4) *Period of adjustment.* When a parent recovers from the condition which caused incapacity, or when an absent parent returns to the home, assistance shall continue if there is need for a period not to exceed the issuance of three warrants.

41.8(5) *Child in foster care.* A child in foster care who returns to the relative's home in which such child would live if not in foster care shall be eligible for aid to dependent children assistance provided such child otherwise meets all of the eligibility requirements of the aid to dependent children program.

Payment for such child shall be computed on the basis of the actual number of days the child spends in the aid to dependent children home. The allowance shall be computed on a per diem basis according to the following paragraphs, and paid in the month following the month of the home visit.

a. When the child is in the home a full calendar month, the grant shall be computed according to subrules 41.8(1) and 41.8(2).

b. When the child is in the home less than a full calendar month, the allowance shall be \$5.00 per day for the first nine days in any one calendar month, and \$3.00 per day for any days in excess of nine days per calendar month, but the total of such allowance shall not exceed the amount as computed under subrule 41.8(5)"a".

c. When the transportation between the foster care facility and the child's home is not included in the service payment to the foster home, the actual cost, not to exceed the current rate paid to state employees for mileage, shall be allowed in the aid to dependent children grant.

This rule is intended to implement section 239.5 of the Code and Acts of the Sixty-eighth General Assembly, H.F. 755, section 10, and H.F. 766, section 1.

770—41.9(239) *Composite ADC/SSI cases.* When persons in the aid to dependent children household, who would ordinarily be in the eligible group, are receiving supplemental security income benefits, the following rules shall apply.

41.9(1) *Pending SSI approval.* When a person who would ordinarily be in the eligible group has applied for supplemental security income benefits, such person's needs may be included in the aid to dependent children grant pending approval of supplemental security income.

41.9(2) *Ownership of property.* When property is owned by both the supplemental security income beneficiary and the aid to dependent children recipient, each shall be considered as having a half interest in order to determine the value of the resource, unless

c. The income of the parent in the eligible group shall be considered available to the eligible group except for that portion of the nonexempt income which may be required to meet the needs of the parent's spouse and their ineligible dependents. The income of the parent in the eligible group shall be given the same consideration and treatment as in any other aid to dependent children case, including the allowance of expenses to secure the income and the applicable disregards.

d. When the income of the parent in the eligible group is needed to meet the needs of the spouse and their dependents such income as is nonexempt may be diverted to meet those needs including verified medical expenditures, in accordance with aid to dependent children standards.

e. When the combined countable income of the parent in the eligible group and the stepparent is sufficient to meet their and their dependent's needs in accordance with aid to dependent children standards of need, the parent shall be removed from the eligible group.

41.10(4) Medical eligibility.

a. Only those individuals whose needs are included in the eligible group shall be certified as eligible for medical assistance except when such person qualifies for medical assistance under other provisions of the medical assistance program.

b. A parent may be included in the eligible group when the combined income of the parent and the stepparent is insufficient to provide for their and their dependents' needs, including verified medical needs.

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CHAPTER 42
DEPENDENT CHILDREN OF UNEMPLOYED PARENTS

770—42.1(239)* Bona fide defined. In determining whether a dependent child's parent has refused a bona fide offer of employment, the term "bona fide" shall mean the following:

42.1(1) A definite offer of employment at wages no less than the federal minimum wage requirement.

42.1(2) The parent has no physical reason that prevents the parent's engaging in such employment, and neither is the parent prevented from accepting the employment by reason of having no way to or from the particular job.

42.1(3) There are no unreasonable risks to health or safety because of working conditions, and the position is covered by workmen's compensation protection.

In case of offers of employment made through the Iowa state employment service, the determination as to whether the offer was bona fide, or whether there was good cause to refuse it, will be made by that agency.

This rule is intended to implement section 239.2(4) of the Code.

770—42.2(239)* Parent's requirements. The dependent child's parent must meet the following requirements.

42.2(1) Have six or more quarters of work within any thirteen calendar quarter period ending within one year prior to the application of aid, or

42.2(2) Have within such one year period received unemployment compensation benefits, or

42.2(3) Would have been eligible to receive unemployment compensation benefits upon filing application, or the parent performed work not covered by such law which, if it had been covered, would, together with any covered work performed, have made the parent eligible to receive such benefits upon filing application.

A quarter of work means a period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31, in which the parent received earned income of not less than fifty dollars or in which the parent participated in the work incentive program as authorized by chapter 249C of the Code.

This rule is intended to implement section 239.2(4) of the Code.

770—42.3(239) Referral. A bona fide referral is a referral which could lead to a bona fide offer of employment. Refusal to follow up on a bona fide employment or training referral shall be treated the same as a refusal of a bona fide offer of employment.

This rule is intended to implement section 239.2(4)"c".

770—42.4(239)* Determination of eligibility. The eligibility of a child to receive aid by virtue of a parent's unemployment shall be determined at least every three months.

This rule is intended to implement section 239.2(4) of the Code.

770—42.5(239)* Assistance continued. When a dependent child's parent becomes employed, assistance shall continue if there is need for a period not to exceed the issuance of three warrants.

This rule is intended to implement section 239.2(4) of the Code.

770—42.6(239) Self-employment. In determining hours of employment, a self-employed person shall be considered to be employed for the number of hours such person's services are available.

770—42.7(239)* Qualifying parent. When both parents qualify, they shall have the option as to which one will be considered the unemployed parent.

[Filed 10/24/73]

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- a. Eviction and inability to find other shelter.
- b. Termination of or refusal to provide utilities by the utility company.
- c. The necessity to provide such essentials as food, clothing, and shelter for dependent children.

d. Continued inability on the part of the payee to manage funds for the benefit of the family, but time is needed to secure a protective payee or a conservator or guardian.

43.3(2) Vendor payments shall be authorized subject to the following limitations:

- a. Vendor payments shall be authorized only by the local administrator.
- b. Vendor payments shall be authorized only with the knowledge and consent of the recipient except in those instances where the vendor payment provision is utilized on an emergency basis to protect the family pending the completion of other arrangements.

c. Vendor payments shall be authorized only to meet emergent situations which limit the recipient's ability to furnish care for children.

d. Vendor payments shall be authorized monthly. When such payments are needed for a period in excess of two months, approval shall be granted by the district income maintenance supervisor or designee.

e. Vendor payments shall be a part of the limitation specified in subrule 43.2(8).

43.3(3) The amount of vendor payment shall be established in the following manner:

- a. A vendor payment or payments shall be for a specific item or items of need.
- b. The recipient, worker, and vendor shall mutually agree upon the quantity, kinds, and quality of goods or services to be provided and the amount to be paid, except in those instances where the vendor payment is necessary as described in subrule 43.3(1) without the consent of the payee.

c. The entire item of need established in 43.3(3) "a" shall be covered by the vendor payment except in those instances where the aid to dependent children grant is less than the amount needed for the vendor payment. In such instances the amount of the vendor payment shall not exceed the amount of the assistance grant.

d. Before a vendor payment is established, consideration shall be given to the family's entire financial situation so that the vendor payment will not jeopardize the funds needed for the family's other expenses.

e. When a vendor payment is established because of a recipient's failure to participate in the work incentive program, such payment shall be fifty percent or more of the total assistance paid for the month.

f. The balance of the assistance payment not used for the vendor payment shall be paid to the recipient in the form of a regular assistance warrant.

43.3(4) The local office shall send the vendor two copies of form PA-3157-5, Authorization for Vendor Payment. The vendor shall complete and return one copy of the form to the local office along with a copy of the billing, invoice or statement.

70—43.4(239) **Emergency payee.** Payments may be made to persons acting for relatives who have been receiving assistance for a child in emergency situations that deprive the child of the relatives' care. These payments shall be made for a temporary period, not to exceed three months, to allow time to make and implement plans for the child's continuing care and support.

This rule is intended to implement section 239.5 of the Code.

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[Filed 1/4/79, Notice 11/29/78—published 1/24/79, effective 3/1/79]

CHAPTER 44 AID TO DEPENDENT CHILDREN FOSTER CARE

70—44.1(239) **Eligibility.** A child is eligible to receive aid to dependent children foster care when the following requirements are met.

44.1(1) The child must have been receiving aid to dependent children in the home of the child's parents or a specified relative in or for the month in which court proceedings

were initiated for removal from the home, or would have received assistance had application been made; or had, within six months prior to the month in which the proceedings were initiated, been living with a specified relative, and would have received assistance in and for the month in which the proceedings were begun had the child continued to live with that relative and application had been made.

44.1(2) The child continues to meet the aid to dependent children eligibility requirements as specified in chapter 41 of rules of the department of social services.

a. The eligibility requirement of deprivation of parental care and support shall be established by the circumstances of the child's natural or adoptive parents. When parental rights have been terminated subsequent to initial determination of eligibility, the child continues to meet the eligibility factor of deprivation.

b. The eligibility requirement of need shall be established by the income and resources of the child.

44.1(3) The child is placed in a licensed foster home, in a private, nonprofit child-caring institution, or under the care of a licensed child-placing agency.

44.1(4) The child must have been removed from the home by judicial determination after April 30, 1961.

44.1(5) As a condition of eligibility, responsibility for placement and supervision of the child is to be given by the court to the Iowa department of social services.

770—44.2(239) Plan of care. The service worker shall develop a plan of care for each child in aid to dependent children foster care which takes into consideration the individual needs of the child and assures proper care while in a foster home or child-caring institution. Such plan shall be reviewed at least every six months.

770—44.3(239) Application. An application for aid to dependent children foster care shall be filed on behalf of the child by the income maintenance worker. When a child is placed in a nonparental home in which eligibility for either regular aid to dependent children or aid to dependent children—foster care may be established, the nonparental caretaker shall have the option of applying for either program.

770—44.4(239) Payment. Payment shall be made in accordance with chapter 137 of rules of the department of social services with the exception that no payment shall be made for a period prior to the date of the court order giving responsibility for placement and supervision to the department.

770—44.5(239) Income. Any income which is restricted to the sole use of the child being removed from the eligible group of an active aid to dependent children case shall be made available to the child and shall be considered in the computation of the aid to dependent children foster care payment when made available.

770—44.6(239) Services. Services shall be available to the child, parents, and foster parents in an aid to dependent children foster care case the same as in the regular foster care program.

These rules are intended to implement section 239.2(1) of the Code.

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CHAPTER 45

[Ch 45, January 1974 IDR Supplement, renumbered as Ch 42]

PAYMENT

770—45.1(239) Address. Assistance warrants shall be mailed to the recipient's current address or, upon request to a post office box, bank, or to any other address for which the

recipient has good reason for the request. Assistance warrants shall be mailed to the protective payee, conservator, or guardian (if applicable) in cases involving said persons.

770—45.2(239) Return. Assistance warrants are not forwardable. When they cannot be delivered by the post office, they shall be returned to either the local office or to the central office.

770—45.3(239) Held warrants. A warrant may be held by the department only in the following instances:

45.3(1) The recipient's whereabouts is unknown.

45.3(2) The recipient is not in the home due to an emergency and it is not known who will be serving as emergency payee.

770—45.4(239) Underpayments. When the recipient receives a payment in an amount less than that for which the recipient was eligible due to an administrative error, a corrective payment shall be made.

45.4(1) An underpayment may be attributed to the local office as a result of one of the following circumstances:

a. Misfiling or loss of forms or documents.

b. Errors in typing or copying.

c. Computer input errors.

d. Mathematical errors.

e. Failure to certify assistance in the correct amount when all essential information was available to the local office.

f. Failure to make prompt revisions in grants following changes in policies requiring such changes as of a specific date.

45.4(2) Retroactive corrective payments shall be made only for the twelve months preceding the month in which the underpayment is discovered.

45.4(3) A retroactive corrective payment is:

a. Exempt from consideration as income.

b. Exempt from consideration as a resource in the month received and the following month.

770—45.5(239) Deceased or cancelled cases. A retroactive corrective payment or a special allowance shall be made for deceased or cancelled cases only when the payment was approved by the local office prior to the recipient's death or cancellation.

These rules are intended to implement section 239.5 of the Code.

[Filed 1/4/79, Notice 11/29/78—published 1/24/79, effective 3/1/79]

CHAPTERS 46 to 49

Reserved

TITLE V

STATE SUPPLEMENTARY ASSISTANCE

CHAPTER 50

APPLICATION FOR ASSISTANCE

770—50.1(249) Definitions.

50.1(1) Payment for residential care. "Payment for residential care" shall mean payment a recipient living in a residential care facility who is determined to be in need of such care and payment is made on a per diem basis.

THE FIRST PART OF THE BOOK IS A HISTORY OF THE
CITY OF NEW YORK FROM THE FIRST SETTLERS
TO THE PRESENT TIME. THE SECOND PART IS A
DESCRIPTION OF THE CITY AND ITS SURROUNDINGS.

THE CITY OF NEW YORK

CHAPTER I

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**CHAPTER 54
FACILITY PARTICIPATION**

770—54.1(249) Application and contract agreement. Each facility desiring to participate in the state supplementary assistance program must enter into a contract with the department of social services and agree to the provisions as enumerated in form PA-1108-6, Application and Contract Agreement for Residential Care Facilities. The effective date of the contract shall be the first of the month that the Application and Contract Agreement for Residential Care Facilities, signed by the administrator of the facility, is received by the department. No payment shall be made for care provided before the effective date of the contract. The contract shall be for a term of twelve months, subject to renewal; or until the department ceases to participate in the program; or until either party gives sixty days notice of termination in writing to the other party.

This rule is intended to implement section 249.12 of the Code.

770—54.2(249) Maintenance of case records. A facility must maintain a case folder for each individual residing in such facility which contains the following:

1. Contract between the facility and the resident.
2. Physician's statement certifying that the resident does not require nursing services.
3. Proof of expenditures from resident's "personal needs" allowance.

This rule is intended to implement section 249.12 of the Code.

770—54.3(249) Financial and statistical report. All facilities wishing to participate in the program shall submit a Financial and Statistical Report for Residential Care Facilities, form AA-4038-0, to the department. Such reports shall be based on the following rules.

54.3(1) Failure to maintain records. Failure to adequately maintain fiscal records, including census records, medical charts, ledgers, journals, tax returns, canceled checks source documents, invoices, and audit reports by or for a facility may result in the penalties specified in subrule 54.8(1).

54.3(2) Accounting procedures. Financial information shall be based on that appearing in the audited financial statement. Adjustments to convert to the accrual basis of account-

ing shall be made when the records are maintained on other accounting basis. Residential care facilities which are a part of a health facility providing nursing home services are not required to file form AA-4038-0, Financial and Statistical Report for Residential Care Facilities. Such combination facilities shall continue to file form AA-4036-0, Financial and Statistical Report for Nursing Homes.

54.3(3) *Submission of reports.* The report shall be submitted to the department of social services no later than three months after the close of each six-month period of the facility's established fiscal year. Failure to submit the report within the three-month period shall reduce payment to seventy-five percent of the current rate. Such reduced rate shall be paid for no longer than three months, after which time no further payments shall be made.

54.3(4) *Payment at new rate.* When a new rate is established, payment at the new rate shall be effective with services rendered as of the first day of the month in which the report was received by the department of social services. Adjustments shall be included in the payment the third month after the receipt of the report.

54.3(5) *Accrual basis.* Facilities not using the accrual basis of accounting shall adjust recorded amounts to the accrual basis. Records of cash receipts and disbursements shall be adjusted to reflect accruals of income and expense.

54.3(6) *Census of public assistance recipients.* Census figures of public assistance recipients shall be obtained on the last day of the month ending the reporting period.

54.3(7) *Patient days.* In determining in-patient days, a patient day is that period of service rendered a patient between the census taking hours on two successive days, the day of discharge being counted only when the patient was admitted that same day.

54.3(8) *Opinion of accountant.* The department may require that an opinion of a certified public accountant or public accountant accompany the report when adjustments made to prior reports indicate disregard of the certification and reporting instructions.

54.3(9) *Calculating patient days.* When calculating patient days, facilities shall use an accumulation method.

a. Census information shall be based on a patient status at midnight each day. A patient whose status changes from one class to another shall be shown as discharged from the previous status and admitted to the new status on the same day.

b. When a recipient is on a reserve bed status and the department of social services is paying on a per diem basis for the holding of a bed, or any day a bed is reserved for a public assistance or nonpublic assistance resident and a per diem rate for the bed is charged to any party, such reserved days shall be included in the total census figures for in-resident days.

54.3(10) *Revenues.* Revenues shall be reported as recorded in the general books and records. Expense recoveries credited to expense accounts shall not be reclassified in order to be reflected as revenues.

a. Routine daily services shall represent the established charge for daily care. Routine daily services are those services which include room, board, and such services as supervision, feeding, and similar services.

b. Revenue not related to resident care shall be applied in reduction of the related expense.

c. Investment income adjustment is necessary only when interest expense is incurred, and only to the extent of such interest expense.

d. Accounts receivable charged off or provision for uncollectible accounts shall be reported as a deduction from gross revenue.

54.3(11) *Limitation of expenses.* Certain expenses that are not normally incurred in providing resident care shall be eliminated or limited according to the following rules.

a. Federal and state income taxes are considered in computing the fee for services for proprietary institutions.

b. Fees paid directors and nonworking officer's salaries are not allowed as reimbursable costs.

c. Bad debts are not an allowable expense.

cost does not exceed \$500.00 per bed per year. Amortization of the cost of the rental property over its expected normal life, the lessor's expense, and a reasonable return on the lessor's investment in the amortized cost or depreciated value of the rental property may be substituted to the extent of the rental payment.

When the facility is leased from a related party, amortization of the cost of the rental property over its expected normal life and the lessor's expense shall be substituted for rent payments.

n. Depreciation, interest and other capital costs attributable to construction of new facilities, expanding existing facilities, or the purchase of an existing facility, are allowable expenses only if prior approval has been gained through the health planning process specified in rules of the health department, 470—chapter 201.

54.3(12) Termination or change of owner. A participating facility contemplating termination of participation or negotiating a change of ownership shall provide the department of social services with at least sixty days prior notice. A transfer of ownership or operation terminates the participation agreement. A new owner or operator shall establish that the facility meets the conditions for participation and enter into a new agreement. The person responsible for transfer of ownership or for termination is responsible for submission of a final financial and statistical report through the date of the transfer. No payment to the new owner shall be made until formal notification is received. The following situations are defined as transfer of ownership:

a. In the case of a partnership which is a party to an agreement to participate in the residential care program, the removal, addition, or substitution of an individual for a partner in the association, in the absence of an express statement to the contrary, dissolves the old partnership and creates a new partnership which is not a party to the previously executed agreement and a transfer of ownership has occurred.

b. When a participating nursing home is a sole proprietorship, a transfer of title and property to another party constitutes a change of ownership.

c. When the facility is a corporation, neither a transfer of corporate stock nor a merger of one or more corporations with the participating corporation surviving is a transfer of ownership. A consolidation of two or more corporations resulting in the creation of a new corporate entity constitutes a change of ownership.

d. When a participating facility is leased, in whole or in part, a transfer of ownership is considered to have taken place.

54.3(13) Payment to new home. A new home for which cost has not been established shall receive the prevailing maximum allowable cost ceiling. At the end of three months' operation a financial and statistical report shall be submitted and the cost established subject to provisions set forth in 53.1(3)"g". Subsequent reports shall be submitted from the beginning day of operation to the end of the fiscal year or six months interim period, whichever comes first, and each six months thereafter.

54.3(14) Payment to the new owner. An existing facility with a new owner shall continue with the previous owner's per diem rate until a new financial and statistical report has been submitted and a new rate established. The facility may submit a report for the period from beginning of actual operation to the end of the fiscal year or may submit two cost reports within the fiscal year provided the second report covers a period of six months ending on the last day of the fiscal year. The facility shall notify the department of social services of the date its fiscal year will end and of the reporting option selected.

54.3(15) The cost-related per diem rate is calculated by computing the per diem allowable costs from the financial and statistical report, adding five percent to all costs except interest to adjust for inflation, and adding an incentive factor of fifty-two cents for nonprofit facilities and seventy cents for proprietary facilities.

This rule is intended to implement section 249.12 of the Code.

770—54.4(249) Goods and services provided. All facilities participating in the program shall provide residents those goods and services required by the terms of the license issued by the Iowa department of health in accordance with chapter 135C of the Code and rules promulgated thereto set forth in 470—chapter 57 and requirements of the department of social services set forth in these rules.

54.4(1) Payment accepted. The amount of client participation and the payment made through the state supplementary assistance program shall be accepted as payment in full for the required goods and services provided the resident. The facility may seek reimbursement from other sources for goods and services provided that are beyond the goods and services required to be provided by these rules.

54.4(2) Care, maintenance, general supervision, and personal services. Each facility as part of providing care, maintenance, general supervision, and personal services shall provide as necessary supervision or assistance with ambulation, grooming, hair washing, shaving, personal hygiene, bathing, getting in and out of bed, dressing, feeding, and with medication that can be self-administered.

54.4(3) Laundry. Each facility shall provide personal laundry service to the resident as part of the goods and services paid for through the program.

54.4(4) Room furnishings. The facility shall completely furnish the resident's room in accordance with health department's subrule 57.30(4) without additional charge to the resident or person acting on the resident's behalf. When the resident wishes to provide some item or items of room furnishing, the facility may grant such a request.

This rule is intended to implement section 249.12 of the Code.

770—54.5(249) Personal needs account. When a facility manages the personal needs funds of a resident, it shall establish and maintain a system of accounting for expenditures from the resident's personal needs funds. The department shall charge back to the facility any maintenance item included in the computation of the audit cost that is charged to the resident's personal needs when such charge constitutes double payment. Unverifiable expenditures charged to personal needs accounts may be charged back to the facility. The accounting system is subject to audit by representatives of the Iowa department of social services, and shall meet the following criteria:

54.5(1) Ledger. Upon admittance, a ledger sheet shall be credited with the resident's total incidental money on hand. Thereafter, the ledger shall be kept current on a monthly basis. The facility may combine such accounting with the disbursement section showing the date, amount given the resident, and the resident's signature. A separate ledger shall be maintained for each resident.

54.5(2) Expenditures. When something is purchased for the resident and is not a direct cash disbursement, each such expenditure item in the ledger shall be supported by a signed, dated receipt. The receipt shall indicate the article furnished for the resident's benefit.

54.5(3) Disbursement. Personal funds shall be turned over only to the resident, the resident's guardian, or other persons selected by the resident. With the consent of the resident, when the resident is able and willing to give such consent the administrator may turn over personal funds to a close relative or friend of the resident to purchase a particular item. A signed, dated receipt shall be required to be deposited in the resident's files.

54.5(4) Audit. The ledger and receipts for each recipient shall be made available for periodic audits by an accredited department representative. Audit certification shall be made by the department's representative at the bottom of the ledger sheet. Supporting receipts may then be destroyed.

54.5(5) Death. Upon a recipient's death the funds remaining in the personal needs account shall be treated in the following manner:

a. The facility shall provide a written statement of the personal needs account to be filed in the case record.

b. When an estate is opened, the funds shall be submitted to the estate administrator.

c. When no estate is opened, the funds shall be released to the person assuming responsibility for the recipient's funeral expenses.

d. When no estate is opened and there are no living heirs, the funds shall be submitted to the department to escheat to the state.

This rule is intended to implement section 249.12 of the Code.

770—54.6(249) Case activity report. A case Activity Report, form AA-4166-0, shall be submitted to the department whenever a recipient enters the facility, changes level of care, is hospitalized, leaves for visitation, or is discharged from the facility.

This rule is intended to implement section 249.12 of the Code.

770—54.7(249) Billing procedures. In order to determine the amount of payment to the recipient, the facility shall submit a billing form to be received by the department by the fifth working day following the last day of the month in which service was provided. Payment will be mailed to the recipient by the fifteenth working day of the month.

54.7(1) Billing. When payment is made, the facility will receive a copy of form AA-4163-0, Residential Payment Register. The original shall be returned to the department as a claim for the next month.

54.7(2) Changes. When there has been a new admission, a discharge, or a claim for a reserved bed, the facility shall also submit form AA-4164-0, Residential Care Change Notice, with the claim.

This rule is intended to implement section 249.12 of the Code.

770—54.8(249) Audits.

54.8(1) Audit of financial and statistical report. Authorized representatives of the department of social services or the department of health, education and welfare shall have the right, upon proper identification, to audit, using generally accepted auditing procedures, the general financial records of a facility to determine if expenses reported on the Financial and Statistical Report for Residential Care Facilities, Form AA-4038-0, are reasonable and proper according to the rules set forth in 770—54.3(249). The aforementioned audits may be done either on the basis of an on-site visit to the facility, their central accounting office, or office(s) of their agent(s).

a. When a proper per diem rate cannot be determined, through generally accepted and customary auditing procedures, the auditor shall examine and adjust the report to arrive at what appears to be an acceptable rate and shall recommend to the department of social services that the indicated per diem be reduced to seventy-five percent of the established payment rate for the ensuing six-month period and if the situation is not remedied on the subsequent Financial and Statistical Report for Residential Care Facilities, Form AA-4038-0, the health facility shall be suspended and eventually canceled from the residential care facility program, or

b. When a facility continues to include as an item of cost an item or items which had in a prior audit been removed by an adjustment in the total audited costs, the auditor shall recommend to the department of social services that the per diem be reduced to seventy-five percent of the current payment rate for the ensuing six-month period. The department may, after considering the seriousness of the exception, make such reduction.

54.8(2) Audit of proper billing and handling of resident funds.

a. Field auditors of the department of social services, or representatives of health, education and welfare, upon proper identification, shall have the right to audit billings to the department of social services and receipts of client participation, to insure the facility is not receiving payment in excess of the contractual agreement and that all other aspects of the contractual agreement are being followed as deemed necessary.

b. Field auditors of the department of social services or representatives of health, education and welfare, upon proper identification, shall have the right to audit records of the facility to determine proper handling of resident funds in compliance with rule 770—54.5(249).

c. The auditor shall recommend and the department of social services shall request repayment by the facility to either the department of social services or the resident(s) involved, such sums inappropriately billed to the department or collected from the resident.

d. The facility shall have sixty days to review the audit and repay the requested funds or present supporting documentation which would indicate that the requested refund amount, or part thereof, is not justified.

e. If the facility fails to comply with paragraph "d", the audit results may be referred to the attorney general's office for whatever action may be deemed appropriate.

f. When exceptions are taken during the scope of an audit which are similar in nature to the exceptions taken in a prior audit, the auditor shall recommend and the department may, after considering the seriousness of the exceptions, reduce payment to the facility to seventy-five percent of the current payment rate.

This rule is intended to implement section 249.12 of the Code.

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TITLE VI

GENERAL PUBLIC ASSISTANCE PROVISIONS

CHAPTER 55

WORK AND TRAINING PROGRAMS

770—55.1(249C) Persons eligible. Persons who are receiving public assistance and are eligible for work and training programs include:

55.1(1) The payee, his or her spouse, and dependent children who are in the eligible group.

55.1(2) Dependent children, sixteen years of age and over, who are not in school or training and for whom there are no educational plans under consideration for implementation within the next three months.

55.1(3) Caretaker relatives and other essential persons in the eligible group. Caretaker relatives who are providing the child with a family home, but are not legally responsible for the child's support, and are themselves not a needy person shall not be eligible for work and training programs.

This rule is intended to implement section 249C.1(5) of the Code.

770—55.2(249C) Education and training plans. All education and training plans must receive approval of the department.

55.2(1) The plan shall include occupational evaluation and assessment.

55.2(2) The plan may be utilized to obtain a high school diploma or the equivalent thereof.

55.2(3) The plan may include institutional training with a vocational goal. Academic courses which are required to complete the training may be a part of the plan.

55.2(4) No allowance may be made to meet the expense of correspondence courses unless the central office of the department approves them.

c. Routine foot care. Routine foot care includes the cutting or removal of corns or callouses, the trimming of nails and other hygienic and preventive maintenance care in the realm of self-care such as cleaning and soaking the feet, the use of skin creams to maintain skin tone of both ambulatory and bedfast patients and any services performed in the absence of localized illness, injury, or symptoms involving the foot.

d. Orthopedic shoes. Payment will not be made for orthopedic shoes or for any device to be worn in or attached to orthopedic shoes or other types of shoes when provided by the podiatrist. Payment will be made to the podiatrist for the examination including tests to establish the need for orthopedic shoes.

78.5(3) Prescriptions are required for drugs and supplies as specified in rule 78.1(2) "c".

This rule is intended to implement section 249A.4 of the Code.

770—78.6(249A) Optometrists. Payment will be approved only for certain optometric services and supplies.

78.6(1) Visual analysis which shall include the following enumerated professional and technical optometric services:

a. Complete case history.

b. Visual acuity.

c. Examination of the eye for pathology, external and ophthalmoscopy.

d. Analytical tests where possible to consist of corneal measurements, retinoscopy, subjective refraction, habitual phorias, induced lateral and vertical phorias, duction through controls, cross-cylinder and resultant phorias, amplitude of accommodation, and plus and minus blur-out.

e. Basic skills as required.

f. Determination of near vision or working distance, acuity and range of near vision.

g. Diagnosis from foregoing tests.

78.6(2) Prescription, analysis, advice and consultation which shall include the following professional services:

a. Analysis of the patient's previous prescription when applicable.

b. Analysis of present visual needs.

c. Determination of required treatment.

d. Programming and presentation of treatment.

e. Writing of the final prescription.

78.6(3) Lens service, verification and subsequent service. When lenses are necessary, the following enumerated professional and technical optometric services are to be provided:

- a. Ordering of corrective lenses.
- b. Verification of lenses after fabrication.
- c. Adjust and align completed lens order.
- d. Subsequent adjustment and servicing of lenses.

78.6(4) Multifocal lens service.

78.6(5) Fitting of contact lenses when required following cataract surgery.

78.6(6) Frame service. When a new frame is necessary, the following enumerated professional and technical optometric services are to be provided.

- a. Selection and styling of frames.
- b. Frame sizing and measurements.
- c. Fitting and adjustment of frames.
- d. Subsequent adjustment and servicing of frames.

78.6(7) Frame service when only lenses are provided.

78.6(8) Tonometry. Results of tests shall accompany the claim.

78.6(9) Visual fields. This shall be performed only when neurological or pathological symptoms are present. Results of tests shall accompany the claim.

78.6(10) Repairs. This charge is not applicable when a charge is made for any other service.

78.6(11) Ophthalmic materials which are provided in connection with any of the foregoing professional optometric services shall provide adequate vision as determined by the optometrist and meet the following standards:

a. Corrected curve lenses, unless clinically contraindicated, manufactured by reputable American manufacturers. Note: Payment will not be made for photogray or cosmetic gradient tints.

b. Standard plastic, plastic metal combination, or metal frames manufactured by reputable American manufacturers.

c. Prescription standards according to the American optometric association standards and tolerance.

78.6(12) Actual laboratory cost of lenses. An invoice must accompany the claim.

78.6(13) Actual laboratory cost, not to exceed eleven dollars, of frames. An invoice must accompany the claim.

78.6(14) Subnormal visual aids including hand magnifiers, loupes, telescopic spectacles or reverse Galilean telescope systems. An invoice must accompany the claim.

78.6(15) Case for glasses not to exceed fifty cents.

78.6(16) Prior approval shall be obtained from the department when a lens correction is the second within a twelve-month period, for procedure in subrule 78.6(8) when the patient is under age thirty-five, and in all cases for procedures in subrules 78.6(9) and 78.6(14). The optometrist shall furnish sufficient information to clearly establish that these procedures are necessary in terms of the visual condition of the patient. Requests for prior approval shall be made on form XIX (OPTO-2), Application for Prior Approval - Optometric Services.

This rule is intended to implement section 249A.4 of the Code.

770—78.7(249A) Opticians. Payment will be made only for certain services and supplies provided by opticians.

78.7(1) A dispensing fee only when the recipient is provided with a new pair of glasses.

78.7(2) Preparation and fitting of contact lenses when required following cataract surgery.

78.7(3) Preparation and fitting of artificial eye.

78.7(4) Repairs or replacement of frames, lenses or component parts. A charge will be approved for service in addition to the actual laboratory cost of materials as evidenced by an invoice attached to the claim, providing no charge is made for any other professional service. Payment will be approved for replacement of glasses when the original glasses have been lost or damaged beyond repair. When the glasses no longer adequately correct the recipient's vision, payment will be approved for lenses only.

The actual laboratory cost, not to exceed eleven dollars, for frames. An invoice must accompany the claim.

78.7(5) Lenses, contact lenses, and artificial eyes. Note: Payment will not be made for photogray or cosmetic gradient tints.

78.7(6) Schroeder shield.

78.7(7) Ptosis crutch.

78.7(8) Subnormal visual aids including hand magnifiers, loupes, telescopic spectacles or reverse Galilean telescope system. This shall be the actual laboratory cost plus a charge for service. An invoice must accompany the claim.

78.7(9) Case for glasses not to exceed fifty cents.

This rule is intended to implement section 249A.4 of the Code.

770—78.8(249A) Chiropractors. Payment will be made for the same chiropractic procedures payable under Title XVIII of the Social Security Act (Medicare). Each chiropractor participating in the program is furnished a list of these chiropractic services for which payment will be approved. The chiropractor shall have on file in the office an X-ray documenting the existence of a subluxation of the spine for which treatment is being given and a charge made to the program in all cases except for pregnant women and children under age five. The documenting X-ray shall be no more than one year old at the time service is provided.

This rule is intended to implement section 249A.4 of the Code.

770—78.9(249A) Home health agencies. Payment will be approved for all medically necessary services and supplies as prescribed by a physician in a plan of home health care provided by a certified home health agency.

This rule is intended to implement section 249A.4 of the Code.

770—78.10(249A) Medical equipment and appliances, prosthetic devices and sickroom supply dealers. Payment will be made for all medical equipment and appliances, prosthetic devices and sickroom supplies required by the recipient because of his condition. The written prescription of the physician is necessary in all cases. If the item required by the recipient is costly and will be needed only a brief period consideration shall be given to rental rather than purchase of the item.

78.10(1) Payment will be approved for durable medical equipment, when the equipment can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of an illness or injury, and is appropriate for use in the home. The equipment must also be necessary and reasonable for the treatment of an illness or injury or to improve the functioning of a malformed body member.

78.10(2) Payment will be approved for prosthetic devices which replace all or part of an internal body organ or replace all or part of the function of a permanently inoperative or malfunctioning internal body organ. Leg, arm, back and neck braces, and artificial legs, arms and eyes are also covered.

78.10(3) Payment will be approved for sickroom supplies when prescribed by the physician for a specific rather than incidental use.

78.10(4) Payment will be approved for repairs to equipment or prosthetic devices which a recipient is purchasing of already owns.

78.10(5) Payment will be approved for replacement of equipment which the recipient owns or is purchasing in cases of loss or irreparable damage or wear and when required because of a change in the recipient's condition.

78.10(6) Payment will be approved for oxygen subject to the same conditions as in the Medicare program.

78.10(7) When an item is rented, at the point one-half of the total rent paid equals the purchase price, the recipient will be considered to own the item and no further rental payments shall be made. This policy is also applicable to the payment of co-insurance for Medicare beneficiaries.

and primary therapist the diagnosis, treatment needs, and treatment plan shall be delineated. The result of the staff shall be recorded by the primary therapist and countersigned by the psychiatrist and placed in the patient's permanent record.

78.16(2) Not later than four months after the initial staffing and each four months thereafter there shall be a documented review of the case by the psychiatrist and primary therapist to evaluate and revise or change the treatment plan as necessary.

78.16(3) The staffing of patients at four weeks and the subsequent periodic four month reviews are not payable as separate services under the treatment program. These reviews shall be documented in the record and are subject to audit by the department of social services.

78.16(4) Clinical records of medical assistance patients shall be available to the carrier on request. All such records shall be held confidential.

78.16(5) At the time of application for participation in the program the center will be provided with a form on which to list its professional staff. The center shall report acquisitions or losses of professional staff to the carrier within ten days.

This rule is intended to implement section 249A.4 of the Code.

770—78.17(249A) **Physical therapists.** Payment will be approved for the same services payable under Title XVIII of the Social Security Act (Medicare).

This rule is intended to implement section 249A.4 of the Code.

770—78.18(249A) **Screening centers.** Payment will be approved for health screening as defined in subrule 84.1(1) for individuals under twenty-one years of age who are eligible for aid to dependent children.

78.18(1)* Payment will be made for immunizations only when provided by the screening center on the same date as the screening examination.

78.18(2) Payment will be approved for necessary laboratory service related to an element of screening when performed by the screening center and billed as a separate item.

78.18(3)* Payment will be approved for four screenings in the first year of life, two screenings between ages one and two, one screening between ages two and three, one screening between ages three and four, one screening between ages four and six (recommended for preschool physical), one screening between ages six and nine, one screening between ages nine and thirteen, one screening between ages thirteen and seventeen, and one screening between ages seventeen and twenty-one.

78.18(4)* When it is established by the periodicity schedule in 78.18(3) that an individual is in need of screening the individual will receive a notice that screening is due.

78.18(5)* When an individual is screened, a member of the screening center shall complete a medical history. The medical history shall become part of the individual's medical record.

This rule is intended to implement section 249A.4 of the Code.

770—78.19(249A) **Rehabilitation agencies.** Payment will be made for the same services payable under the Medicare program (Title XVIII of the Social Security Act).

This rule is intended to implement section 249A.4 of the Code.

*Emergency after Notice pursuant to §17A.5(2)"b"(2) of the Code.

770—78.20(249A) Independent laboratories. Payment will be made for the same services payable under the Medicare program (Title XVIII of the Social Security Act).

This rule is intended to implement section 249A.4 of the Code.

770—78.21(249A)* Rural health clinics. Payment will be made to rural health clinics for the same services payable under the Medicare program (Title XVIII of the Social Security Act). Payment will be made for sterilization in accordance with 78.1(16).

770—78.22(249A) Family planning clinics. Payment on a cost related rate per visit basis will be approved for services provided by family planning clinics. Payment will be made for sterilizations in accordance with 78.1(16).

770—78.23(249A) Other clinic services. Payment will be made on a cost related rate per visit basis to facilities not part of a hospital, funded publicly or by private contributions, which provide medically necessary treatment by or under the direct supervision of a physician or dentist to outpatients. Payment will be made for sterilizations in accordance with 78.1(16).

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CHAPTER 79
OTHER POLICIES RELATING TO PROVIDERS OF
MEDICAL AND REMEDIAL CARE

770—79.1(249A) Principles governing reimbursement of providers of medical and remedial care. Payment for services of providers of care participating in the medical assistance program will be made on the basis of "reasonable cost" for institutional providers (hospitals, skilled nursing facilities, home health agencies, rehabilitation agencies, and independent laboratories). The determination of reasonable cost for institutional providers will be made utilizing the methods and criteria in effect for these providers in the Medicare program. (Title XVIII of the Social Security Act)

The department with the advice of representatives of the various professional groups participating in the program has developed schedules of maximum allowances for use in determining payment to noninstitutional providers of care. Providers of care must accept reimbursement based upon reasonable charges as determined by the department making no additional charges for the service.

79.1(1) Prohibition against reassignment of claims. No payment under the medical assistance program for any care or service provided to a patient by any health care provider shall be made to anyone other than such providers. However with respect to physicians, dentists, or other individual practitioners direct payment may be made to the employer of the practitioner if the practitioner is required as a condition of employment to turn over fees to the employer; or where the care or service was provided in a facility, to the facility in which the care or service was provided if there is a contractual arrangement between the practitioner and the facility whereby the facility submits the claim for reimbursement; or to a foundation, plan or similar organization including a health maintenance organization which furnishes health care through an organized health care delivery system if there is a contractual agreement between organization and the person furnishing the service under which the organization bills or receives payment for such person's services. Payment may be made in accordance with an assignment from the provider to a government agency or an assignment made pursuant to a court order. Payment may be made to a business agent, such as a billing service or accounting firm, which renders statements and receives payment in the name of the provider when the agent's compensation for this service is (1) reasonably related to the cost of processing the billing; (2) not related on a percentage or other basis to the dollar amounts to be billed or collected; and (3) not dependent upon the actual collection of payment. Nothing in this rule shall preclude making payment to the estate of a deceased practitioner.

79.1(2) Prohibition against factoring. Payment under the medical assistance program for any care or service furnished to an individual by providers as specified in 79.1(1) shall not be made to or through a factor either directly or by virtue of power of attorney given by the provider to the factor. A factor is defined as an organization, collection agency, or service bureau which, or an individual who, advances money to a provider for accounts receivable which have been assigned or sold or otherwise transferred including transfer through the use of power of attorney to such organization or individual for an added fee or reduction of a portion of such accounts receivable. The term factor does not include business representatives such as billing agents or accounting firms which render statements and receive payments in the name of the individual provider provided that the compensation of such business representative for such service is reasonably related to the cost of processing the billings and is not related on a percentage or other basis to the dollar amounts to be billed or collected.

79.1(3) Reasonable charges for services, supplies, and equipment. For selected medical services, supplies, and equipment, including equipment servicing, which in the judgment of the secretary of the department of health, education, and welfare generally do not vary significantly in quality from one provider to another, the upper limits for payments shall be the lowest charges for which such devices are widely and consistently available in a locality.

For those selected services and items furnished under part B of Medicare and Medicaid, the upper limits shall be the lowest charge levels recognized under Medicare. For those selected services and items furnished only under Medicaid, the upper limits shall be the lowest charge levels determined by the department according to the Medicare reimbursement method.

a. For any noninstitutional item or service furnished under both Medicare and Medicaid, the department shall pay no more than the reasonable charge established for that item or service by the part B Medicare carrier serving part or all of Iowa. Noninstitutional services do not include practitioner's services, such as physicians, pharmacies, or out-patient hospital services.

b. For all other noninstitutional items or services furnished only under Medicaid, the department shall pay no more than the customary charge for a provider or the prevailing charges in the locality for comparable items or services under comparable circumstances, whichever is lower.

This rule is intended to implement section 249A.4 of the Code.

770—79.2(249A) Disciplinary action against provider of care. The department reserves the right to remove from participation in the medical assistance program any practitioner or provider of care who has violated the department's requirements for participation. Although not limited to the following practices, the following are illustrative practices which would be considered just cause for removal from participation of a provider of remedial care and services.

79.2(1) Billing for services or supplies not provided or for services and supplies different from those actually provided.

79.2(2) Provision of services or supplies in an amount in excess of that medically necessary for the proper treatment of the patient.

79.2(3) Persistent refusal to comply with the department's rules governing participation in the program.

79.2(4) Unprofessional, unethical or other questionable practices relating to care and treatment of recipients.

Any overpayments made to providers of service shall be recovered by the department.

This rule is intended to implement section 249A.4 of the Code.

770—79.3(249A) Maintenance of clinical and fiscal records by provider of service. Providers of service shall maintain clinical and fiscal records in support of services for which a charge is made to the program and shall make such records available to duly authorized representatives of the department on request. The fiscal records shall support each item of service for which a charge is made to the program and the clinical records shall specify the procedure or procedures performed, the dates of service, the medications or other supplies or services prescribed or provided to the recipient together with information concerning progress of treatment. Such clinical and fiscal records shall be retained for a minimum of five years. After five years the records may be destroyed.

This rule is intended to implement section 249A.4 of the Code.

770—79.4(249A) Appeal by provider of care. Any provider of care who is dissatisfied with a decision rendered by the carrier with reference to reimbursement for services provided or the medical necessity of such service may file an appeal with the department of social services. The appeal which must be submitted in writing and state the complaint of the provider of care shall be filed with the department of social services. On receipt of the appeal a hearing will be arranged before the hearing officer of the department of social services. At the time of the hearing the provider of care may present such evidence as he desires. Following the hearing a decision will be rendered by the commissioner of the department of social services and such decision shall be final.

This rule is intended to implement section 249A.4 of the Code.

770—79.5(249A) Nondiscrimination on the basis of handicap. All providers of service shall comply with section 504 of the Rehabilitation Act of 1973 and Federal regulations 45CFR Part 84, April 28, 1977, which prohibit discrimination on the basis of handicap in all department of health, education, and welfare funded programs.

This rule is intended to implement section 249A.4(6) of the Code.

770—79.6(249A) Provider participation agreement. Providers of medical and health care wishing to participate in the program shall execute an agreement with the department on form XIX (PA-1), Agreement Between Provider of Medical and Health Services and the Iowa Department of Social Services re Participation in the Medical Assistance Program. In this agreement, the provider agrees to the following:

79.6(1) To maintain clinical and fiscal records as specified in rule 79.3(249A).

79.6(2) That the charges as determined in accordance with the department's policy shall be the full and complete charge for the services provided and no additional payment shall be claimed from the recipient or any other person for services provided under the program.

79.6(3) That it is understood that payment in satisfaction of the claim will be from federal and state funds and any false claims, statements, or documents, or concealment of a material fact may be prosecuted under applicable federal and state laws.

This rule is intended to implement section 249A.4 of the Code.

770—79.7(249A) Medical assistance advisory council.

79.7(1) Officers. Officers shall be a chairperson, and a vice-chairperson.

a. Elections shall be held each year at the meeting held in January.

b. The term of office shall be one year. Officers shall serve no more than two terms.

c. The vice-chairperson shall serve in the absence of the chairperson.

d. The chairperson and vice-chairperson shall have the right to vote on any issue before the council.

e. The chairperson shall appoint a nominating committee of not less than three members and shall appoint other committees approved by the council.

79.7(2) Alternates. Each organization represented may select one alternate as representative when the primary appointee is unable to be present. Alternates may attend any and all meetings of the council, but only one representative of each organization shall be allowed to vote.

79.7(3) Expenses. The travel expenses of the public representatives and other expenses, such as those for clerical services, mailing, telephone, and meeting place, shall be the responsibility of the department of social services. The department shall arrange for a meeting place, related services, and accommodations.

79.7(4) Meetings. The council shall meet at least four times each year. At least two of these meetings shall be with the department of social services. Additional meetings may be called by the chairperson, upon written request of at least fifty percent of the members, or by the commissioner of the department of social services.

a. Meetings shall be held in the Des Moines, Iowa, area, unless other notification is given.

b. Written notice of council meetings shall be mailed at least two weeks in advance of such meetings. Each notice shall include an agenda for the meeting.

79.7(5) Procedures.

a. A quorum shall consist of two-thirds of the voting members.

b. Where a quorum is present, a position is carried by a majority of the council.

c. Minutes of council meetings and other written materials developed by the council shall be distributed by the department to each member and alternate and to the executive office of each organization or body represented.

d. Notice shall be made to the representing organization when the member, or alternate, has been absent from three consecutive meetings.

e. In cases not covered by these rules, Robert's Rules of Order shall govern.

1. The first step is to identify the problem. In this case, the problem is that the company is not meeting its sales targets.

79.7(6) *Duties.* The medical assistance advisory council shall:

- a. Make recommendations on the reimbursement for medical services rendered by providers of services.
- b. Assist in identifying unmet medical needs and maintenance needs which affect health.
- c. Make recommendations for objectives of the program and for methods of program analysis and evaluation, including utilization review.
- f. Recommend ways in which needed medical supplies and services can be made available most effectively and economically to the program recipients.
- g. Advise on such administrative and fiscal matters as the commissioner of the department of social services may request.
- h. Advise professional groups and act as liaison between them and the department.
- i. Report at least annually to the appointing authority.
- j. Perform such other functions as may be provided by state or federal law or regulation.
- k. Communicate information considered by the council to the member organizations and bodies.

79.7(7) *Responsibilities.*

- a. Recommendations of the council shall be advisory and not binding upon the department of social services or the member organizations and bodies. The department will consider all advice and counsel of the council.
- b. The council may choose subjects for consideration and recommendation. It shall consider all matters referred to it by the department of social services.
- c. Any matter referred by a member organization or body shall be considered upon an affirmative vote of the council.
- d. The department shall provide the council with reports, data, and proposed and final amendments to rules, regulations, laws, and guidelines, for its information, review, and comment.
- e. The department shall present the biennial budget for the medical assistance program for review and comment.
- f. The department shall permit staff members to appear before the council to review and discuss specific information and problems.
- g. The department shall maintain a current list of members and alternates on the council.

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CHAPTER 80
PROCEDURE AND METHOD OF PAYMENT

770—80.1(249A) The carrier function in medical assistance.

80.1(1) *General administrative responsibilities of carrier.* The carrier designated by the department will perform the following primary functions:

a. Receive, process and pay claims submitted by providers of medical and remedial care participating in the program.

b. Make available instructional materials and billing forms to providers participating in the program.

c. Provide reports, statistical and accounting information as required by the department.

d. Participate with staff of the department in analysis and evaluation of policies and procedures.

e. In co-operation with the department develop and carry out a continuous program of cost and utilization review which is applicable to all groups of providers participating in the program. The purpose of cost and utilization review is to assure that only required medical and health services are being received by recipients of medical assistance and that the cost of such services is not in excess of that charged the general public.

80.1(2) *Method of selection of carrier.* The department will receive sealed bids from prospective carriers for the medical assistance program. Basis of competitive bidding will be a per claim rate which would be applicable to all claims processed by the carrier under the program. A certified check payable to the Iowa department of social services in the amount of \$5,000.00 shall be filed with each proposal. This check may be cashed and the proceeds retained by the department as liquidated damages if the bidder fails to execute a contract and file security as required by the specifications for the faithful performance thereof. Proposals containing any reservations not provided for in the specifications may be rejected and the department reserves the right to waive technicalities and to reject any or all bids.

80.1(3) *Reimbursement of carrier for performance of contract.* All allowable costs other than amounts paid providers of medical and remedial care and services shall be referred to as administrative costs.

a. Rate per claim. Administrative costs other than those not associated with the processing of claims as set forth below shall be based on a fixed rate per claim handled. Between July 1 and September 30 of each year a complete administrative cost analysis will be submitted to the department by the carrier. If the cost analysis indicates that the rate per claim handled is in excess of the cost of administration the carrier will refund to the department the overpayment and adjust the per claim charge as of October 1. If the cost analysis indicates an administrative cost in excess of the claim rate the carrier shall submit an additional billing to the department but in no event shall the additional billing exceed ten percent of the immediately preceding claim rate.

b. Costs not associated with processing of claims. Administrative costs of the carrier which are not included in the claim rate and which are approved by the department for reimbursement may be billed as separate items. The following costs may be billed:

(1) Printing of informational materials and billing forms.

(2) Initial and subsequent mailings of billing forms and instructions to providers of care.

(3) Establishment of office routine but not to include materials, supplies or any office or processing equipment.

(4) Any special studies, reports or projects requested by the department which are not specified in the contract.

(5) Costs of utilization review.

This rule is intended to implement section 249A.4 of the Code.

- c. Developmental assessments.
- d. Vision screening.
- e. Hearing screening.
- f. Ear, nose, mouth, throat, and teeth inspection.
- g. Hematocrit or hemoglobin.
- h. Rapid urine screening.
- i. Review of immunization status.
- j. Sick cell, when appropriate.
- k. Serology, when appropriate.
- l. Lead poisoning, when appropriate.
- m. Cardiac auscultation, when appropriate.

84.1(2) Diagnosis. "Diagnosis" is the determination of the nature of physical or mental disease or abnormality.

770—84.2(249A) Eligibility. All eligible persons under age twenty-one in aid to dependent children families are eligible for early and periodic screening, diagnosis, and treatment.

770—84.3(249A) Resources. Screening may be done at a screening center or by a private physician.

770—84.4(249A) Referral.

84.4(1) The availability of early and periodic screening shall be discussed with the aid to dependent children payee at the time of application and periodically thereafter, but no less often than at the time of the regular semiannual review.

84.4(2)* Screening shall be offered to each eligible individual according to the periodicity schedule in subrule 78.18(3) when screening has been accepted, or on at least an annual basis when screening has been rejected.

84.4(3) When an individual has not had a screening examination during the preceding twelve months, the worker shall discuss the desirability of such screening with the recipient at the time of the next review. When the recipient agrees to the referral, the worker shall complete form MA-2119-0, Referral for Screening, and have the recipient sign it.

770—84.5(249A) Followup. Followup services shall be provided when a referral for screening was accepted, but sixty days have elapsed and no screening examination has been performed, and when a screening examination discloses a possible abnormal condition and a referral was made for further diagnosis or treatment and such diagnosis or treatment has not been received within a period of sixty days from the date of the screening examination.

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CHAPTERS 85 to 89

[Ch 83, 1973 IDR, renumbered as Ch 138]

Reserved

TITLE IX

WORK INCENTIVE PROGRAM

CHAPTER 90

ELIGIBILITY OF PERSONS

770—90.1(249C) Definitions.

90.1(1) Whenever "department" is used in this title it shall mean the Iowa department of social services.

90.1(2) Whenever "local office" is used in this title it shall mean the local office of the department of social services.

90.1(3) Whenever "institutional training" is used in this title it shall include, but not be limited to, classroom instruction.

This rule is intended to implement section 249C.1 of the Code.

*Emergency after Notice, pursuant to §17A.5(2)"b"(2) of the Code.

770—90.2(249C) Persons eligible. Persons who are eligible to participate in the work incentive program must be either eligible applicants or recipients of aid to dependent children.

This rule is intended to implement section 249C.1(5) of the Code.

770—90.3(249C) Continued participation. Persons who become ineligible for aid to dependent children while actively participating in the work incentive program may continue such participation until their employability plan is complete.

This rule is intended to implement sections 249C.4 and 249C.17 of the Code.

770—90.4(249C) Requirements for applicants. Job service will give all aid to dependent children applicants labor market information and offer job referral services as a part of the registration process. Only unemployed fathers are required to accept job referral services. Other applicants who are mandatory registrants, but have not yet received notification of aid to dependent children grant approval may accept job referral services.

This rule is intended to implement sections 249C.4 and 249C.17 of the Code.

770—90.5(249C) Selection. Individuals to be appraised for work incentive program participation are selected by job service and the local office. Selection is made based on the following priorities.

90.5(1) Unemployed fathers within fourteen calendar days of aid to dependent children grant approval.

90.5(2) All other clients volunteering for work incentive program services.

90.5(3) All other registrants.

This rule is intended to implement sections 249C.3, 249C.4, and 249C.17 of the Code.

770—90.6(249C) Appraisal. Each registrant selected shall be appraised to determine employment potential and social service needs. The local office shall make a home visit during the appraisal process.

This rule is intended to implement sections 249C.2, 249C.4, and 249C.17 of the Code.

770—90.7(249C) Plans. An employability plan and a social service plan shall be completed for each client who is accepted for participation in the work incentive program.

90.7(1) The employability plan shall include the employment goal, the process whereby the program will assist the client to become an active member of the labor force, training needs, and vocational goal. It shall be signed by job service, the local office, and the client before the client can become an active work incentive program participant.

90.7(2) The social service plan shall specify the services to be provided to support and facilitate the employability plan.

This rule is intended to implement sections 249C.2, 249C.4, 249C.13, and 249C.17 of the Code.

770—90.8(249C) Certification.

90.8(1) Unemployed fathers shall be certified for the work incentive program within thirty days of receipt of aid to dependent children benefits.

90.8(2) Persons who find employment on their own may be certified for services to insure job retention or employment upgrading.

This rule is intended to implement sections 249C.2, 249C.4, 249C.13, and 249C.17 of the Code.

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TITLE XI
CHILDREN'S INSTITUTIONS

CHAPTER 100
Reserved

CHAPTER 101
IOWA STATE JUVENILE HOME

770—101.1(218) Definitions.

101.1(1) Resident. Whenever "resident" is used in these rules, it shall mean a child committed to the state director and admitted to the state juvenile home.

101.1(2) Immediate family. Whenever "immediate family" is used in these rules, it shall mean spouse, child, parent, brother, sister or grandparent.

101.1(3) Contraband. Whenever "contraband" is used in these rules, it shall mean weapons, alcohol, drugs, obscene materials as defined in section 728.1, paragraph (1), of the Iowa Code, or materials advocating disruption of or injury to residents, employees, programs, or physical facilities. It shall also include anything which is illegal to possess under the law, materials which are used in the production of drugs or alcohol or used in conjunction with the taking of illicit drugs.

770—101.2(218) Visiting.

101.2(1) Visiting hours are from 10:00 a.m. to 4:30 p.m. Saturday and Sunday. The superintendent may designate certain weekdays or holidays for visiting. The resident shall be responsible for informing the visitor of such days. Visitation by the family will be encouraged and necessary flexibility in these hours and days will be allowed.

101.2(2) All visiting during times other than described in 101.2(1) shall have approval from the superintendent or designee prior to the day of visit.

101.2(3) Visitors shall check in with security staff upon arrival. The counselor on duty may request identification of the visitor. Failure to produce identification may result in denial of the visit.

101.2(4) Residents are permitted to visit with their parents or adult members of the immediate family. Children under twelve years of age may visit only with parental supervision. Friends may visit when approved by the administrative officer and with proper adult supervision.

101.2(5) Any visitor arriving on the grounds who is under the influence of or has been partaking of drugs or alcoholic beverages shall not be permitted a visit.

101.2(6) Residents shall have written authorization of the administrative officer in charge before accompanying parents of another student out on a visit.

101.2(7) Persons other than immediate family or legal counsel who wish to visit a resident must obtain prior approval from the superintendent or designee before visiting.

101.2(8) When visited by a friend twelve years of age or older, the resident and friend shall be supervised by the resident's parent or parents or responsible adult approved by the administrative officer in charge at all times.

101.2(9) The superintendent reserves the right to limit or terminate visiting in all cases where doing so is in the best interests of the resident's personal and therapeutic needs. When limitations or termination of visiting rights occur, the superintendent or administrator in charge shall immediately notify persons involved why the action was taken, and a written report will be placed in the resident's file.

This rule is intended to implement section 218.4 of the Code.

770—101.3(218) Interviews and statements.

101.3(1) All residents will be informed of their right to remain silent.

101.3(2) When the resident agrees, interviews will be granted at the discretion of the superintendent. Whenever an interview is granted, at least one staff person shall be present

for the entirety of the interview and shall have the authority to terminate the interview any time such person feels the best interests of the resident are not being served.

101.3(3) The resident shall be represented by legal counsel during any interview being conducted to obtain information that will be or may be used in court against the resident.

101.3(4) Exceptions to 101.3(2) will be made only for the resident's own attorney or state officials acting in their official capacity.

101.3(5) The superintendent may deny an interview in situations deemed detrimental to the resident. The person requesting the interview shall be referred to the director, division of community programs, Iowa department of social services for approval.

101.3(6) Permission for written deposition may be granted by the superintendent following the aforementioned rules for granting interviews. One copy of such depositions shall be submitted to the superintendent. Voice recording of such interviews will not be permitted. This rule shall in no way restrict depositions ordered by the court.

This rule is intended to implement section 218.4 of the Code.

770—101.4(218) Mail and packages.

101.4(1) Outgoing or incoming letters or packages shall not be opened, read, censored, or tampered with in any manner, except that institutional staff, in order to search for and seize contraband, may open, but not read, incoming mail or packages in the presence of the resident to whom the mail is directed or require that the resident open the letter or package in the staff's presence and disclose the contents.

101.4(2) Letters or packages found to contain contraband may be withheld, but both the sender and the intended receiver of the withheld mail shall be notified and given reasons for the action in writing within forty-eight hours of the action.

101.4(3) When correspondence between a resident and another person is not considered to be in the best interest of and detrimental to the treatment plan of the resident, the superintendent or designee may terminate that correspondence. Just cause shall be shown and written notice provided to both correspondents.

101.4(4) When correspondence has been terminated as described in 101.4(3), either of the correspondents may request a review of the termination at any time.

101.4(5) Terminations under 101.4(3) shall be based on individual cases and not on groups or agencies.

This rule is intended to implement section 218.4 of the Code.

770—101.5(218) Use of buildings and grounds.

101.5(1) When the residents are not using space or a facility, such space or facility may be available for public use at the discretion of the superintendent.

101.5(2) A deposit of fifteen dollars may be required twenty-four hours in advance of reserving the canteen. The full deposit shall be refunded when the canteen is left in satisfactory condition.

101.5(3) Requests for use of the staff conference room, lounge, and chapel building shall be directed to the superintendent's secretary.

101.5(4) A twenty-five dollar deposit may be required for use of the recreation center facilities. The full deposit shall be refunded when the facilities are left in satisfactory condition.

a. An employee of the state juvenile home shall be present to supervise the group.

b. The group supervisor shall sign a release form and a form accepting responsibility for the group's supervision prior to the use of the facility.

c. Only facilities specifically requested and approved shall be used by the group.

101.5(5) The state juvenile home reserves the right to cancel an agreement to use facilities in the event of emergency or schedule changes where resident use takes priority.

This rule is intended to implement section 218.4 of the Code.

770—101.6(218) Incoming phone calls. All incoming telephone calls for residents shall have approval of the superintendent or designee prior to the conversation. The identity of the caller shall be verified before approval is given. Telephone calls shall not be monitored.

This rule is intended to implement section 218.4 of the Code.

770—101.7(218) Resident employment.

101.7(1) Employers, individuals, or organizations wishing to hire a resident of the institution shall receive approval from the superintendent or designee.

101.7(2) Child labor laws shall be adhered to.

101.7(3) The employer's legal and institutional responsibilities shall be documented by the superintendent or designee and communicated, including salary, supervision, transportation, and hours, to the residents' employer so as to clarify and document the resident-employer employment agreement.

101.7(4) The employer or superintendent or designee or resident has the right to terminate such employment at any time.

101.7(5) Residents shall be paid in accordance with minimum wage laws in effect for off-campus employment. Work of a more skilled nature shall be compensated accordingly.

101.7(6) All checks or money shall be turned into the business office for deposit in the resident's account, not given directly to the resident.

101.7(7) Behavior unacceptable to the employer shall be reported to the institution. Behavior unacceptable to an employer shall not subject the resident to any sanctions, punishment or punitive restriction of privileges, unless it constitutes a public offense or violates institutional rules and, in that case, it shall follow the normal discipline procedure or referral to court for prosecution. Runaway residents shall be reported to the institution immediately.

This rule is intended to implement section 218.4 of the Code.

770—101.8(218) Tours. Tours of the facilities may be scheduled on weekdays from 8:00 a.m. to 4:00 p.m. by appointment through the superintendent or designee.

This rule is intended to implement section 218.4 of the Code.

770—101.9(218) Acceptance.

101.9(1) Children shall be accepted for evaluation as diagnostic beds are available on a first come, first served basis.

101.9(2) Children shall be accepted into the regular program as treatment beds are available on a first come, first served basis.

101.9(3) No children adjudicated to have committed a delinquent act shall be admitted to the state juvenile home.

101.9(4) A certified copy of the court order which complies with chapter 232 of the Code and the relevant petitions must accompany the child to the institution.

This rule is intended to implement section 218.4 of the Code.

770—101.10(218) Admission procedures. When a youth is to be admitted to the state juvenile home, arrangements shall be made for the actual admission between 8:00 a.m. and 4:30 p.m., Monday through Friday. The youth being admitted shall be accompanied by such youth's parents, when available. Whenever possible, a preadmission visit by the youth to the institution shall be arranged by the local office service worker.

This rule is intended to implement section 218.4 of the Code.

770—101.11(218) Program assignment. Residents will be assigned to specific cottage programs, educational and vocational programs and special services, such as drug counseling, family therapy, or similar services, to meet the needs of each individual resident, taking into consideration the limitation of the availability of space and specific programs. It is the responsibility of the superintendent to notify the court when appropriate space or program is not available and to deny admission until these needs can be met.

This rule is intended to implement section 218.4 of the Code.

770—101.12(218) Individual care plan.

101.12(1) Whenever a resident is placed in a treatment program in the institution, an individual care plan shall be developed within thirty days.

101.12(2) The institution shall notify the resident, the resident's parents, the child's legal counsel, the court and the assigned service worker in writing of the time, date and nature of the individual care plan staffing at least ten working days prior to the staffing.

101.12(3) The institution counselor shall ensure that the institution has completed an assessment of the resident prior to the individual care plan staffing.

This rule is intended to implement section 218.4 of the Code.

770—101.13(218) Special staffing. Whenever special concerns and needs arise in the program of a resident, a meeting of institutional staff, assigned service worker and other relevant parties shall convene to evaluate and formulate appropriate changes in the care plan.

This rule is intended to implement section 218.4 of the Code.

770—101.14(218) Isolation. Isolation is the placement of a resident in a locked room to control behavior. The resident's request to spend time in a private, unlocked room is not to be considered isolation and should be granted if feasible. Quarantine or other preventive health measures are not considered isolation but can only be ordered by a licensed physician. During nighttime lock-up, staff shall check each resident every fifteen minutes, and the time of each check shall be recorded. At no time shall residents be out of audio contact with staff. Staff shall be available at all times to meet the physical needs of the residents.

101.14(1) Authority for isolation rests with the administrator or in the administrator's absence the staff person designated by the administrator. The administrator shall see the resident, assess the resident's needs, and seek professional consultation if indicated. Normally, written orders with date and time shall precede the placement of a resident in isolation. In emergencies, telephone orders may be accepted, to be followed promptly by a written order, dated and signed by the administrator or designee not later than four hours after the telephone order.

101.14(2) An order for isolation is good for only four hours. For every four-hour period, the procedure in 101.14(1) shall be followed. The time the order is received will be recorded with the order on the order sheet. No nonmedical isolation will continue beyond twenty-four hours.

101.14(3) In the absence of a written or telephone order, a resident may be placed in isolation as a protective measure for no more than one hour when such action is immediately necessary. At such times the designated staff person shall be notified immediately and either approve or disapprove the isolation. When the isolation is not approved, the child shall be released immediately from isolation. When isolation is approved, the designated staff person shall then visit the resident and, when isolation seems necessary, immediately notify the administrator. The approving staff person shall document observations fully on an appropriate progress report.

101.14(4) The following procedure shall be followed when a resident is in isolation:

a. Potentially dangerous articles shall be removed from the resident. This includes articles of clothing when there are reasonable grounds to believe such clothing constitutes a substantial threat to the health or safety of the resident. In no case shall underwear or all clothing be removed.

b. The physical needs of the resident shall be given prompt response.

c. Immediate counseling service shall be available.

101.14(5) The following shall be available to a child in isolation:

a. A clean dry room of moderate temperature, equipped with light sufficient for reading between the hours of 7:00 a.m. to 10:00 p.m.

b. Sufficient clothing to meet seasonal needs.

c. A bed, including blankets, sheets, pillow and pillow cases, and mattresses.

d. Personal hygiene supplies including soap, toothpaste, toothbrush, hairbrush, comb, towels, and toilet paper.

- e. Minimum writing materials, pen, pencils, paper and envelopes.
- f. Prescription eyeglasses, if needed.
- g. Access to books, periodicals and other reading materials.
- h. Adequate toilet facilities and bathing facilities.
- i. Correspondence privileges generally applicable to all juveniles in the institution; and
- j. Access to medical facilities including twenty-four hour nursing service on call.

101.14(6) Any item described in section 101.14(5) that is determined by supervisory personnel to present an immediate danger to the child may be denied for the period during which the immediate danger exists, provided that a written report of what is denied, why, and for how long is included in the child's record.

101.14(7) A monitoring report with observations entered at no less than fifteen-minute intervals shall be maintained and included in the resident's record. This report shall be retained in the resident's record. The report shall also include information as follows:

- a. Identifying data concerning name, age.
- b. Reason for isolation.
- c. Period of time in isolation, and
- d. Statement regarding status of resident after release from isolation.

This rule is intended to implement section 218.4 of the Code.

770—101.15(218) Grievance procedure.

101.15(1) A resident shall have the right to file a grievance against a policy, program, or procedure.

101.15(2) The institution shall have a clearly written grievance procedure with at least one appeal level.

101.15(3) All grievances filed shall be heard.

This rule is intended to implement section 218.4 of the Code.

770—101.16(218) Alleged child abuse. The department shall arrange for the investigation of any reported case of child abuse in which the alleged perpetrator is an employee of the institution or some other department of social services employee to be conducted by an agency other than the department of social services.

This rule is intended to implement section 218.4 of the Code.

770—101.17(218) Temporary home visits.

101.17(1) Residents may be granted a temporary home visit for up to five days for such reasons as to attend funerals, weddings, holiday functions, or job seeking; or for the primary purpose of exploring and improving family and community relations; or for the purpose of preplacement visits to foster or group homes to test the appropriateness of such a placement.

101.17(2) The court, the child's legal counsel, the resident's parents, the temporary placement, if different than the parents' home, and the assigned service worker shall be notified in writing five working days in advance of a visit except in cases of emergency when phone calls to the previously discussed people followed by a written notice explaining the special circumstance shall be sufficient.

101.17(3) In all cases, the institutional superintendent or designee and the assigned service worker shall approve all temporary home visits in advance.

101.17(4) All temporary visit placements shall be investigated and approved as appropriate by the assigned service worker or probation officer in writing and in advance of any visit being scheduled.

101.17(5) In special cases which involve the treatment needs of the child, a temporary home visit may be extended when both the institutional superintendent or designee and the assigned service worker's supervisor agree that the proposed extension is appropriate and the bureau of children's services approves the special extension request. Approval of exceptions shall be made on the basis of the treatment needs of the child.

This rule is intended to implement section 218.4 of the Code.

770—101.18(218) Prerelease staffing.

101.18(1) Thirty days prior to any anticipated release from the regular program, a release staffing shall be held.

101.18(2) The institution shall supply written notice of the time, date, and intent of the release staffing at least five working days prior to the staffing to the resident, the resident's parents, the court, the child's legal counsel, and the assigned service worker.

This rule is intended to implement section 218.4 of the Code.

770—101.19(218) Attorney contacts. The resident shall have the right to contact the resident's attorney during normal business hours and at other times with prior approval of the attorney. The cost of such contacts shall be arranged prior to the contact being made. Children who do not have an attorney should be referred to the appropriate legal aid.

This rule is intended to implement section 218.4 of the Code.

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CHAPTER 102 MITCHELLVILLE TRAINING SCHOOL

770—102.1(218) Definitions.

102.1(1) Resident. Whenever "resident" is used in these rules, it shall mean a child committed to the state director and admitted to the Mitchellville training school.

102.1(2) Immediate family. Whenever "immediate family" is used in these rules, it shall mean spouse, child, parent, brother, sister or grandparent.

102.1(3) Contraband. Whenever "contraband" is used in these rules, it shall mean weapons, alcohol, drugs, obscene materials as defined in section 728.1, paragraph (1), of the Code, or material advocating disruption of or injury to residents, employees, programs, or physical facilities. It shall also include anything which is illegal to possess under the law,

materials which are used in the production of drugs or alcohol, or used in conjunction with the taking of illicit drugs.

This rule is intended to implement section 218.4 of the Code.

770—102.2(218) Visiting.

102.2(1) Visiting hours are from 10:00 a.m. to 4:00 p.m. Saturday and Sunday. The superintendent may designate certain weekdays or holidays for visiting. The resident shall be responsible for informing the visitor of such days. Visitation by the family will be encouraged and necessary flexibility in these hours and days will be allowed.

102.2(2) All visiting during times other than described in 102.2(1) shall have approval from the superintendent or designee prior to the day of visit.

102.2(3) Visitors shall check in with security staff upon arrival. The counselor on duty may request identification of the visitor. Failure to produce identification may result in denial of the visit.

102.2(4) Residents are permitted to visit with their parents or adult members of the immediate family. Children under twelve years of age may visit only with parental supervision. Friends may visit when approved by the treatment director and with proper adult supervision.

102.2(5) Any visitor arriving on the grounds who is under the influence of or has been partaking of drugs or alcoholic beverages shall not be permitted a visit.

102.2(6) Residents shall have written authorization of the treatment director before accompanying parents of another student out on a visit.

102.2(7) Persons other than immediate family or legal counsel who wish to visit a resident must obtain prior approval from the superintendent or designee before visiting.

102.2(8) When visited by a friend twelve years of age or older, the resident and friend shall be supervised by the resident's parent or parents or responsible adult approved by the treatment director at all times.

102.2(9) The superintendent reserves the right to limit or terminate visiting in all cases where doing so is in the best interest of the resident's personal and therapeutic needs. When limitations or termination of visiting rights occur, the superintendent or administrator in charge shall immediately notify persons involved why the action was taken and a written report will be placed in the resident's file.

This rule is intended to implement section 218.4 of the Code.

770—102.3(218) Interviews and statements.

102.3(1) All residents will be informed of their right to remain silent.

102.3(2) When the resident agrees, interviews will be granted at the discretion of the superintendent. Whenever an interview is granted, at least one staff person shall be present for the entirety of the interview and shall have the authority to terminate the interview anytime such person feels the best interests of the resident are not being served.

102.3(3) The resident shall be represented by legal counsel during any interview being conducted to obtain information that will be or may be used in court against the resident.

102.3(4) Exceptions to 102.3(2) will be made only for the resident's own attorney or state officials acting in their official capacity.

102.3(5) The superintendent may deny an interview in situations deemed detrimental to the resident. The person requesting the interview shall be referred to the director, division of community programs, Iowa department of social services for approval.

102.3(6) Permission for written depositions may be granted by the superintendent following the aforementioned rules for granting interviews. One copy of such depositions shall be submitted to the superintendent. Voice recording of such interviews will not be permitted. This shall in no way restrict depositions ordered by the court.

770—102.4(218) Mail and packages.

102.4(1) Outgoing or incoming letters or packages shall not be opened, read, censored, or tampered with in any manner, except that institutional staff, in order to search for and seize

contraband, may open, but not read, incoming mail or packages in the presence of the resident to whom the mail is directed or require that the resident open the letter or package in the staff's presence and disclose the contents.

102.4(2) Letters or packages found to contain contraband may be withheld, but both the sender and the intended receiver of the withheld mail shall be notified and given reasons for the action in writing within forty-eight hours of the action.

102.4(3) When correspondence between a resident and another person is not considered to be in the best interest of and detrimental to the treatment plan of the resident, the superintendent or designee may terminate that correspondence. Just cause shall be shown and written notice provided to both correspondents.

102.4(4) When correspondence has been terminated as described in 102.4(3), either of the correspondents may request a review of the termination at any time.

102.4(5) Termination under 102.4(3) shall be based on individual cases and not on groups or agencies.

This rule is intended to implement section 218.4 of the Code.

770—102.5(218) Use of buildings and grounds.

102.5(1) When the residents are not using space or a facility, such space or facility may be available for public use at the discretion of the superintendent.

102.5(2) A deposit of fifteen dollars may be required twenty-four hours in advance of reserving the canteen. The full deposit shall be refunded when the canteen is left in satisfactory condition.

102.5(3) Requests for use of the staff conference room, lounge and chapel building shall be directed to the superintendent's secretary.

102.5(4) A twenty-five dollar deposit may be required for use of the recreation center facilities. The full deposit shall be refunded when the facilities are left in satisfactory condition.

a. An employee of the training school must be present to supervise the group.

b. The group supervisor must sign a release form and a form accepting responsibility for the group's supervision prior to the use of the facility.

c. Only facilities specifically requested and approved shall be used by the group.

102.5(5) The training school reserves the right to cancel an agreement to use facilities in the event of emergency or schedule changes where resident use takes priority.

This rule is intended to implement section 218.4 of the Code.

770—102.6(218) Incoming phone calls. All incoming telephone calls for residents shall have approval of the superintendent or designee prior to the conversation. The identity of the caller shall be verified before approval is given. Telephone calls shall not be monitored.

770—102.7(218) Resident employment.

102.7(1) Employers, individuals, or organizations wishing to hire a resident of the institution shall receive approval from the superintendent or designee.

102.7(2) Child labor laws shall be adhered to.

102.7(3) The employer's legal and institutional responsibilities shall be documented by the superintendent or designee and communicated, including salary, supervision, transportation, and hours, to the residents' employer so as to clarify and document the resident-employer employment agreement.

102.7(4) The employer or superintendent or designee or resident has the right to terminate the employment at any time.

102.7(5) Residents shall be paid in accordance with the minimum wage laws in effect for off-campus employment. Work of a more skilled nature shall be compensated accordingly.

102.7(6) All checks or money shall be turned into the business office for deposit in the resident's account, not given directly to the resident.

102.7(7) Behavior unacceptable to the employer shall be reported to the institution. Behavior unacceptable to an employer shall not subject the resident to any sanctions, punishment, or punitive restriction of privileges, unless it constitutes a public offense or violates institutional rules and, in that case, it shall follow the normal discipline procedure or referral to court for prosecution. Runaway residents shall be reported to the institution immediately.

This rule is intended to implement section 218.4 of the Code.

770—102.8(218) Tours. Tours of the facilities may be scheduled on weekdays from 8:00 a.m. to 4:00 p.m. by appointment through the superintendent or designee.

This rule is intended to implement section 218.4 of the Code.

770—102.9(218) Acceptance.

102.9(1) Children shall be accepted for evaluation as diagnosis beds are available on a first come, first served basis.

102.9(2) Children shall be accepted into the regular program as treatment beds are available on a first come, first served basis.

102.9(3) No child adjudicated a child in need of assistance shall be admitted to the Mitchellville training school except for diagnosis and evaluation and then only when a current petition is on file that alleges the child to have committed a delinquent act.

102.9(4) A certified copy of the court order which complies with chapter 232 of the Code and the relevant petitions must accompany the child to the institution.

This rule is intended to implement section 218.4 of the Code.

770—102.10(218) Admission procedures. When a youth is to be admitted to the Mitchellville training school, arrangements shall be made for the actual admission between 8:00 a.m. and 4:30 p.m., Monday through Friday. The youth being admitted shall be accompanied by such youth's parents, when available. Whenever possible, a preadmission visit by the youth to the institution shall be arranged by the local office service worker.

This rule is intended to implement section 218.4 of the Code.

770—102.11(218) Program assignment. Residents will be assigned to specific cottage programs, educational and vocational programs and special services such as drug counseling, family therapy, or similar services, to meet the needs of each individual resident, taking into consideration the limitation of the availability of space and specific programs. It is the responsibility of the superintendent to notify the court when appropriate space or program is not available and to deny admission until these needs can be met.

This rule is intended to implement section 218.4 of the Code.

770—102.12(218) Individual care plan.

102.12(1) Whenever a resident is placed in a treatment program in the institution, an individual care plan shall be developed within thirty days.

102.12(2) The institution shall notify the resident, the resident's parents, the child's legal counsel, the court and the assigned service worker in writing of the time, date and nature of the individual care plan staffing at least ten working days prior to the staffing.

102.12(3) The institution counselor shall ensure that the institution has completed an assessment of the resident prior to the individual care plan staffing.

This rule is intended to implement section 218.4 of the Code.

770—102.13(218) Special staffing. Whenever special concerns and needs arise in the program of a resident, a meeting of institutional staff, assigned service worker and other relevant parties shall convene to evaluate and formulate appropriate changes in the care plan.

This rule is intended to implement section 218.4 of the Code.

770—102.14(218) Detention.

102.14(1) When a student is placed in detention for inappropriate behavior, the client's situation shall be reviewed by a panel composed of two staff members, one from clinical and one from another department, within twenty-four hours to determine if the child should remain there, if so for how long and what the privileges will be during the stay. Any use of detention beyond seven days shall be reported to the director, division of community programs. At no time shall detention be used for more than fourteen days for a single incident.

102.14(2) Within five working days of a detention review the service worker and the court shall receive a written report of the review which summarizes the incident as related by the resident and the staff, the review decision and the rationale behind the decision.

This rule is intended to implement section 218.4 of the Code.

770—102.15(218) Grievance procedure.

102.15(1) A resident shall have the right to file a grievance against a policy, program or procedure.

102.15(2) The institution shall have a clearly written grievance procedure with at least one appeal level.

102.15(3) All grievances filed shall be heard.

This rule is intended to implement section 218.4 of the Code.

770—102.16(218) Alleged child abuse. The department shall arrange for the investigation of any reported case of child abuse in which the alleged perpetrator is an employee of the institution or some other department of social services employee to be conducted by an agency other than the department of social services.

770—102.17(218) Temporary home visits.

102.17(1) Residents may be granted a temporary home visit for up to five days for reasons such as to attend funerals, weddings, holiday functions or job seeking; or for the primary purpose of exploring and improving family and community relations; or for the purpose of preplacement visits to foster or group homes to test the appropriateness of such a placement.

102.17(2) The court, the child's legal counsel, the resident's parents, the temporary placement, if different than the parents' home, and the assigned service worker shall be notified in writing five working days in advance of a visit except in cases of emergency when phone calls to the previously discussed people followed by a written notice explaining the special circumstances shall be sufficient.

102.17(3) In all cases, the institutional superintendent or designee and the assigned service worker shall approve all temporary home visits in advance.

102.17(4) All temporary visit placements shall be investigated and approved as appropriate by the assigned service worker or probation officer in writing and in advance of any visit being scheduled.

102.17(5) In special cases which involve the treatment needs of the child, a temporary home visit may be extended when both the institutional superintendent or designee and the assigned service worker's supervisor agree that the proposed extension is appropriate and the bureau of children's services approves the special extension request. Approval of exceptions shall be made on the basis of the treatment needs of the child.

This rule is intended to implement section 218.4 of the Code.

770—102.18(218) Prerelease staffing.

102.18(1) Thirty days prior to any anticipated release from the regular program, a release staffing shall be held.

102.18(2) The institution shall supply written notice of the time, date, and intent of the release staffing at least five working days prior to the staffing to the resident, the resident's parents, the court, the child's legal counsel, and the assigned service worker.

This rule is intended to implement section 218.4 of the Code.

770—102.19(218) Attorney contact. The resident shall have the right to contact the resident's attorney during normal business hours and at other times with prior approval of the attorney. The cost of such contacts shall be arranged prior to the contact being made. Children who do not have a lawyer should be referred to the appropriate legal aide.

This rule is intended to implement section 218.4 of the Code.

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[Filed 9/6/79, Notice 6/27/79—published 10/3/79, effective 11/7/79]

CHAPTER 103
ELDORA TRAINING SCHOOL

770—103.1(218) Definitions.

103.1(1) Resident. Whenever “resident” is used in these rules, it shall mean a child committed to the state director and admitted to the Eldora training school.

103.1(2) Immediate family. Whenever “immediate family” is used in these rules, it shall mean spouse, child, parent, brother, sister or grandparent.

103.1(3) Contraband. Whenever “contraband” is used in these rules, it shall mean weapons, alcohol, drugs, obscene materials as defined in section 728.1, paragraph (1), of the Iowa Code, or material advocating disruption of or injury to residents, employees, programs, or physical facilities. It shall also include anything which is illegal to possess under the law, materials which are used in the production of drugs or alcohol, or used in conjunction with the taking of illicit drugs.

This rule is intended to implement section 218.4 of the Code.

770—103.2(218) Visiting.

103.2(1) Visiting hours are from 10:00 a.m. to 4:30 p.m. on Saturdays and Sundays. The superintendent may designate certain weekdays or holidays for visiting. The resident shall be responsible for informing the visitor of such days. Visitation by the family will be encouraged and necessary flexibility in these hours and days will be allowed.

103.2(2) All visiting during times other than described in 103.2(1) shall have approval from the superintendent or designee prior to the day of visit.

103.2(3) Visitors shall check in with security staff upon arrival. The counselor on duty may request identification of the visitor. Failure to produce identification may result in denial of the visit.

103.2(4) Residents are permitted to visit with their parents or adult members of the immediate family. Children under twelve years of age may visit only with parental supervision. Friends may visit when approved by the counselor and with proper adult supervision.

103.2(5) Any visitor arriving on the grounds who is under the influence of or has been partaking of drugs or alcoholic beverages shall not be permitted a visit.

103.2(6) Residents must have written authorization of the cottage director concerned before accompanying parents of another student out on a visit.

103.2(7) Persons other than immediate family or legal counsel who wish to visit a resident must obtain prior approval from the superintendent or designee before visiting.

103.2(8) When visited by a friend twelve years of age or older, the resident and friend must be supervised by the resident’s parent or parents or responsible adult approved by the resident’s counselor at all times.

103.2(9) The superintendent reserves the right to limit or terminate visiting in all cases where doing so is in the best interests of the resident’s personal and therapeutic needs. When limitations or termination of visiting rights occur, the superintendent or administrator in charge shall immediately notify persons involved why the action was taken and a written report will be placed in the resident’s file.

This rule is intended to implement section 218.4 of the Code.

770—103.3(218) Interviews and statements.

103.3(1) All residents will be informed of their right to remain silent.

103.3(2) When the resident agrees, interviews shall be granted at the discretion of the superintendent. Whenever an interview is granted, at least one staff person shall be present for the entirety of the interview and shall have the authority to terminate the interview any time such person feels the best interests of the resident are not being served.

103.3(3) The resident shall be represented by legal counsel during any interview being conducted to obtain information that will be or may be used in court against the resident.

103.3(4) Exceptions to 103.3(2) will be made only for the resident's own attorney or state officials acting in their official capacity.

103.3(5) The superintendent may deny an interview in situations deemed detrimental to the resident. The person requesting the interview shall be referred to the director, division of community programs, Iowa department of social services for approval.

103.3(6) Permission for written depositions may be granted by the superintendent following the aforementioned rules for granting interviews. One copy of such depositions shall be submitted to the superintendent. Voice recording of such interviews will not be permitted. This shall in no way restrict depositions ordered by the court.

This rule is intended to implement section 218.4 of the Code.

770—103.4(218) Mail and packages.

103.4(1) Outgoing or incoming packages shall not be opened, read, censored, or tampered with in any manner, except that institutional staff, in order to search for and seize contraband, may open, but not read, incoming mail or packages in the presence of the resident to whom the mail is directed or require that the resident open the letter or package in the staff's presence and disclose the contents.

103.4(2) Letters or packages found to contain contraband may be withheld, but both the sender and the intended receiver of the withheld mail shall be notified and given reasons for the action in writing within forty-eight hours of the action.

103.4(3) When correspondence between a resident and another person is not considered to be in the best interest of and detrimental to the treatment plan of the resident, the superintendent or designee may terminate that correspondence. Just cause shall be shown and written notice provided to both correspondents.

103.4(4) When correspondence has been terminated as described in 103.4(3), either of the correspondents may request a review of the termination at any time.

103.4(5) Termination under 103.4(3) shall be based on individual cases and not on groups or agencies.

This rule is intended to implement section 218.4 of the Code.

770—103.5(218) Use of buildings and grounds.

103.5(1) When the residents are not using space or a facility, such space or facility may be available for public use at the discretion of the superintendent.

103.5(2) A deposit of fifteen dollars may be required twenty-four hours in advance of reserving the canteen. The full deposit shall be refunded when the canteen is left in satisfactory condition.

103.5(3) Requests for use of the staff conference room, lounge, and chapel building shall be directed to the superintendent's secretary.

103.5(4) A twenty-five dollar deposit may be required for use of the recreation center facilities. The full deposit shall be refunded when the facilities are left in satisfactory condition.

a. An employee of the training school must be present to supervise the group.

b. The group supervisor must sign a release form and a form accepting responsibility for the group's supervision prior to the use of the facility.

c. Only facilities specifically requested and approved shall be used by the group.

103.5(5) The training school reserves the right to cancel an agreement to use facilities in the event of emergency or schedule changes where resident use takes priority.

This rule is intended to implement section 218.4 of the Code.

770—103.6(218) Incoming phone calls. All incoming telephone calls for residents shall have approval of the superintendent or designee prior to the conversation. The identity of the caller shall be verified before approval is given. Telephone calls shall not be monitored.

This rule is intended to implement section 218.4 of the Code.

770—103.7(218) Resident employment.

103.7(1) Residents may be employed off-campus through a request directed to the administrative counselor's office. Employers, individuals, or organizations wishing to hire a resident of the institution shall receive approval from the superintendent or designee.

103.7(2) Child labor laws shall be adhered to.

103.7(3) The employers legal and institutional responsibilities shall be documented by the superintendent or designee and communicated, including salary, supervision, transportation, and hours, to the resident's employer so as to clarify and document the resident-employer employment agreement.

103.7(4) The employer or superintendent or designee or resident has the right to terminate the employment at any time.

103.7(5) Residents shall be paid in accordance with the minimum wage laws in effect for off-campus employment; work of a more skilled nature shall be compensated accordingly.

103.7(6) All checks or money shall be turned into the business office for deposit in the resident's account, not given directly to the resident.

103.7(7) Behavior unacceptable to the employer shall be reported to the institution. Behavior unacceptable to an employer shall not subject the resident to any sanctions, punishment or punitive restriction of privileges, unless it constitutes a public offense or violates institutional rules and, in that case, it shall follow the normal discipline procedure or referral to court for prosecution. Runaway residents shall be reported to the institution immediately.

This rule is intended to implement section 218.4 of the Code.

770—103.8(218) Tours. Tours of the facilities may be scheduled on weekdays from 8:00 a.m. to 4:00 p.m. by appointment through the superintendent or designee.

This rule is intended to implement section 218.4 of the Code.

770—103.9(218) Acceptance.

103.9(1) Children shall be accepted for evaluation as diagnostic beds are available on a first come, first served basis.

103.9(2) Children shall be accepted into the regular program as treatment beds are available on a first come, first served basis.

103.9(3) No child adjudicated a child in need of assistance shall be admitted to the Eldora training school except for diagnosis and evaluation and then only when a current petition is on file that alleges the child to have committed a delinquent act.

103.9(4) A certified copy of the court order which complies with chapter 232 of the Code and the relevant petitions must accompany the child to the institution.

This rule is intended to implement section 218.4 of the Code.

770—103.10(218) Admission procedures. When a youth is to be admitted to the Eldora training school, arrangements shall be made for the actual admission between 8:00 a.m. and 4:30 p.m., Monday through Friday. The youth being admitted shall be accompanied by such youth's parents, when available. Whenever possible, a preadmission visit by the youth to the institution shall be arranged by the local office service worker.

This rule is intended to implement section 218.4 of the Code.

770—103.11(218) Program assignment. Residents will be assigned to specific cottage programs, educational and vocational programs and special services, such as drug counseling, family therapy, or similar services, to meet the needs of each individual resident, taking into consideration the limitation of the availability of space and specific programs. It is the responsibility of the superintendent to notify the court when appropriate space or program is not available and to deny admission until these needs can be met.

This rule is intended to implement section 218.4 of the Code.

770—103.12(218) Individual care plan.

103.12(1) Whenever a resident is placed in a treatment program in the institution, an individual care plan shall be developed within thirty days.

103.12(2) The institution shall notify the resident, the resident's parents, the child's legal counsel, the court and the assigned service worker in writing of the time, date and nature of the individual care plan staffing at least ten working days prior to the staffing.

103.12(3) The institution counselor shall ensure that the institution has completed an assessment of the resident prior to the individual care plan staffing.

This rule is intended to implement section 218.4 of the Code.

770—103.13(218) Special staffing. Whenever special concerns and needs arise in the program of a resident, a meeting of institutional staff, assigned service worker and other relevant parties shall convene to evaluate and formulate appropriate changes in the care plan.

This rule is intended to implement section 218.4 of the Code.

770—103.14(218) Detention.

103.14(1) When a student is placed in detention for inappropriate behavior, the client's situation shall be reviewed by a panel composed of two staff members, one from clinical and one from another department, within twenty-four hours to determine if the child should remain there, if so for how long and what the privileges will be during the stay. Any use of detention beyond seven days shall be reported to the director, division of community programs. At no time shall detention be used for more than fourteen days for a single incident.

103.14(2) Within five working days of a detention review, the service worker and the court shall receive a written report of the review which summarizes the incident as related by the resident and the staff, the review decision and the rationale behind the decision.

This rule is intended to implement section 218.4 of the Code.

770—103.15(218) Grievance procedure.

103.15(1) A resident shall have the right to file a grievance against a policy, program or procedure.

103.15(2) The institution shall have a clearly written grievance procedure with at least one appeal level.

103.15(3) All grievances filed shall be heard.

This rule is intended to implement section 218.4 of the Code.

770—103.16(218) Alleged child abuse. The department shall arrange for the investigation of any reported case of child abuse in which the alleged perpetrator is an employee of the institution or some other department of social services employee to be conducted by an agency other than the department of social services.

This rule is intended to implement section 218.4 of the Code.

770—103.17(218) Temporary home visits.

103.17(1) Residents may be granted a temporary home visit for up to five days for such reasons as to attend funerals, weddings, holiday functions, or job seeking; or for the primary purpose of exploring and improving family and community relations; or for the purpose of preplacement visits to foster or group homes to test the appropriateness of such a placement.

103.17(2) The court, the child's legal counsel, the resident's parents, the temporary placement, if different than the parents' home, and the assigned service worker shall be notified in writing five working days in advance of a visit except in cases of emergency when phone calls to the previously discussed people followed by a written notice explaining the special circumstance shall be sufficient.

103.17(3) In all cases, the institutional superintendent or designee and the assigned service worker shall approve all temporary home visits in advance.

103.17(4) All temporary visit placements shall be investigated and approved as appropriate by the assigned service worker or probation officer in writing and in advance of any visit being scheduled.

103.17(5) In special cases which involve the treatment needs of the child, a temporary visit may be extended when both the institutional superintendent or designee and the assigned service worker's supervisor agree that the proposed extension is appropriate and the bureau of children's services approves the special extension request. Approval of exceptions shall be made on the basis of the treatment needs of the child.

This rule is intended to implement section 218.4 of the Code.

770—103.18(218) Prerelease staffing.

103.18(1) Thirty days prior to any anticipated release from the regular program, a release staffing shall be held.

103.18(2) The institution shall supply written notice of the time, date, and intent of the release staffing at least five working days prior to the staffing to the resident, the resident's parents, the court, the child's legal counsel, and the assigned service worker.

This rule is intended to implement section 218.4 of the Code.

770—103.19(218) Attorney contacts. The resident shall have the right to contact the resident's attorney during normal business hours and at other times with prior approval of the attorney. The cost of such contacts shall be arranged prior to the contact being made. Children who do not have an attorney shall be referred to the appropriate legal aid.

This rule is intended to implement section 218.4 of the Code.

[Filed 10/17/75, Notice 8/11/75—published 11/3/75, effective 12/8/75]

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[Filed 9/6/79, Notice 6/27/79—published 10/3/79, effective 11/7/79]

**CHAPTER 135
ABUSE OF CHILDREN**

770—135.1(235A) Definitions.

135.1(1) Whenever "*acts*" is used it shall mean anything done to produce physical injury of a child.

135.1(2) Whenever "*omissions*" is used it shall mean something omitted which results in physical injury of a child and relates directly to injury resulting from indifference or carelessness.

770—135.2(235A) Reports. The central registry and local office shall accept initial reports from mandated reporters and any other person believing a child has had physical injury inflicted upon such child. A written report shall be made within forty-eight hours after an oral report. The reporter may use the department's form SS-1705-0, Suspected Child Abuse Reporting Form, or may use a form developed by the reporter which meets the requirements of section 235A.13(2) of the Code. Any person who has taken or caused to be taken photographs or X-rays in accordance with section 235A.11 of the Code may obtain reimbursement by submitting a Voucher 1 to the department. A letter shall accompany the voucher and contain the child's name, age, and address; the location of the photographs or X-rays; the date the photographs or X-rays were taken; and a statement by the reporter agreeing to retain the photographs or X-rays for five years.

770—135.3(235A) Registry records. Central registry records shall be kept in the name of the child and cross-referenced in the name of the parents, guardian, or other person responsible for the child's care, or any other person responsible for a child's injury.

770—135.4(235A) Information disseminated. Reports by the central registry to the appropriate office of the department of social services medical practitioner or law enforcement agency shall be limited to the nature and extent of previous injury sustained by the child named in the report or any other child in the same home. All other information shall be available to departmental employees designated to investigate the report. Requests for child abuse information shall be made on form SS-1606-0, Request for Child Abuse Information. Authorized access shall be determined by the local office when the requester is unknown to the central registry. Information shall be routed through the local office to insure lawful dissemination.

770—135.5(235A) Person conducting research. The person in charge of the central registry shall be responsible for determining whether a person requesting child abuse information is conducting bona fide research. To make this determination, the central registry may require such person to submit credentials and the research design. Any costs incurred in the dissemination of the information shall be assumed by the researcher. The department will keep a public record of persons conducting such research.

770—135.6(235A) Examination of information. Examination of information contained in the central registry can be made at the site of the central registry between the hours of 8:00 a.m. and 12:00 p.m. or 1:00 p.m. and 4:00 p.m., Monday through Friday, excepting state authorized holidays.

The person, or that person's attorney, requesting to examine the information in the registry which refers to that person, shall be allowed to inspect the information after providing appropriate identification.

770—135.7(235A) Expungement of central registry records. When a report of child abuse has been determined to be unfounded in accordance with section 235A.18, subsection 2, such report shall be expunged within one month after such determination.

[Filed August 26, 1974]

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[Filed 5/8/78, Notice 11/30/77—published 5/31/78, effective 7/5/78]

CHAPTER 136 FOSTER CARE SERVICES

770—136.1(234) Definitions.

136.1(1) "Department" shall mean the Iowa department of social services and includes the local, county, and regional offices of the department.

136.1(2) "Local office" shall mean the local office of the Iowa department of social services located in a particular community.

136.1(3) "Child" shall mean the same as defined by section 234.1 of the Code.

136.1(4) "Vocational or technical training" shall mean an educational program designed primarily to teach a child a skill or trade for the purpose of preparing the child for gainful employment. The vocational or technical training must be pursued in conjunction with a course of study leading to a high school diploma or its equivalent, or in lieu thereof.

136.1(5) "Foster care" shall mean substitute care furnished on a twenty-four hour a day basis to an eligible child, in a licensed foster care facility, by a person or agency other than the child's parent or guardian, but does not include care provided in a family home through an informal arrangement for a period of less than thirty days. Child foster care shall include but is not limited to the provision of food, lodging, training, education, supervision, and health care.

136.1(6) "Facility" means the personnel, program, plant and equipment of a person or agency providing child foster care.

136.1(7) "Eligible child" shall mean a child for whom the court has given guardianship to the department or has transferred legal custody to the department or for whom the department has agreed to provide foster care services on the basis of a signed placement agreement or who has been placed in emergency care for a period of not more than thirty days upon the approval of the commissioner or the commissioner's designee.

136.1(8) "Person" or "agency" shall mean individuals, institutions, partnerships, voluntary associations, and corporations, other than institutions under the management or control of the department, who are licensed by the department as a foster family home, child caring agency or child placing agency.

136.1(9) "Natural parent" shall mean a parent by blood, marriage, or adoption.

136.1(10) "Case plan" shall mean the plan identifying needs, services, and time frames for delivery of such services to the child and natural parents, setting forth objectives and goals to be met and responsibilities of all parties involved.

This rule is intended to implement section 234.6(7)"b" of the Code.

770—136.2(234) Eligibility. Only an eligible child as defined in these rules shall be considered for foster care services. When it is determined that the unique needs of a child are such that education or training other than as defined in subrule 136.1(4) is necessary to prepare the child for gainful employment or to function in daily living situations, the district administrator may approve such education or training as meeting eligibility requirements.

This rule is intended to implement section 234.6(7) "b" of the Code.

770—136.3(234) Voluntary placements.

136.3(1) All voluntary placement agreements shall terminate after six months unless the placement is extended or court action is taken to commit the child to the commissioner or to transfer legal custody to the department. All voluntary placements that extend beyond six months or beyond the age of eighteen years shall be approved by the district administrator or designee.

136.3(2) Voluntary placements will only be extended when there is documentation that the child has an emotional, physical or intellectual handicap which necessitates care and treatment of a longer duration than six months, and documentation that the natural parents have demonstrated a willingness to fulfill their responsibilities to the child as defined in the case plan.

136.3(3) Each extension granted shall be for only six months duration.

136.3(4) A signed voluntary placement agreement form SS-2604, shall be completed by the local office where the parent or guardian resides.

This rule is intended to implement section 234.6(7) "b" of the Code.

770—136.4(234) Selection of facility.

136.4(1) Foster care placement shall only be made after all available and appropriate services have been provided to the child and the natural parents in the family home and such in-home services have failed to alleviate the need for out-of-home placement. A social history shall be completed prior to foster care placement.

136.4(2) Placement shall be made in the least restrictive facility in which the child's particular needs can be met and as close to the natural home as possible.

136.4(3) Foster family care shall be used for a child unless the child has problems requiring specialized service which cannot be provided in a family living arrangement.

136.4(4) With the exception of emergency care, a social history shall be completed on each child prior to placement in a foster care facility.

136.4(5) The need for placement and service shall be determined by an assessment of the child and family to determine their needs and appropriateness of services. Assessments include the educational, physical, psychological, social family living, and recreational needs of the child. The assessment is a continual process to identify needed changes in service or placement for the child.

136.4(6) A foster family shall be selected on the basis of compatibility with the child, taking into consideration:

a. The extent to which interests, strengths, abilities and needs of the foster family enable them to understand, accept and provide for the individual needs for the child.

b. The child's individual problems and plans for future care.

c. The capacity of the foster family to understand the needs and attitudes of the child's parents and the relationship of the child to the parents.

d. The characteristics of the foster family that offer a positive experience for the child who has specific problems as a consequence of past relationships with other adults.

e. An environment that will cause minimum disruption of the child including a minor number of changes in foster family home placements for the child.

136.4(7) The appropriate public or private agency shall be selected on the basis of its ability to meet the needs of the child and promote the child's growth and development and insure physical, intellectual and emotional progress during the stay in the facility. Payment shall only be made to a licensed agency which has a current purchase of service agreement with the department.

This rule is intended to implement section 234.6(7) "b" of the Code.

770—136.5(234) Preplacement. Except for emergency foster care, a child placed in a facility shall have a preplacement visit involving the child, the foster parents or agency staff if the child is placed in a public or private agency, and the service worker. The natural parents shall also be involved in the preplacement visit when their presence would not be disruptive to the child's placement.

This rule is intended to implement section 234.6(7) "b" of the Code.

770—136.6(234) Placement.

136.6(1) Prior to placement, the worker shall provide the facility with pertinent information regarding the child and the case plan, including a physical examination, medical needs, behavioral patterns, educational arrangements, and financial arrangements; and medical authorizations and other releases.

136.6(2) A follow-up visit to the facility shall be made within two weeks of the initial placement.

136.6(3) The case plan shall be reviewed every six months to assure appropriateness of the child's placement. A copy of the case plan and report to the court shall be submitted to the court every six months or as requested by the court.

This rule is intended to implement section 234.6(7) "b" of the Code.

770—136.7(234) Out-of-district placements.

136.7(1) When the department makes a placement of a child in the foster care system out of the district in which the child resides, such placement shall occur only when there is no appropriate placement within the district or when an out-of-district agency is closer to the community where the child resides than an in-district agency offering the same services.

136.7(2) The authority for approving out-of-district placements rests with both the placing and receiving district administrators.

136.7(3) Transfer of responsibility for supervision, planning, and visitation shall be approved by the placing and receiving district administrators and, when appropriate, by the court.

This rule is intended to implement section 234.6(7) "b" of the Code.

770—136.8(234) Out-of-state placements.

136.8(1) When the department makes an out-of-state placement of a child, in the foster care system, such placement shall occur only when the foster family with whom the child has been placed moves out of the state; or when an out-of-state family, having previous knowledge of the child, desires to provide foster care for the child; or when an out-of-state agency is closer to the community where the child resides than an in-state agency offering the same services; or when an out-of-state agency offers a more specialized program than that provided in state.

136.8(2) The department shall have the responsibility for a child who is ordered by the court to be placed in an out-of-state facility only when the court has transferred legal custody to the department or has committed the child to the commissioner or the commissioner's designee and when the facility has a purchase of service agreement with the department.

136.8(3) The district administrator shall approve all out-of-state placements when the agency in which the child is being placed is closer to the community where the child resides than an in-state agency offering the same services. All other out-of-state placements shall be approved by the district administrator and the state director or director's designee. All out-of-state placements shall be made pursuant to interstate compact procedures.

This rule is intended to implement section 234.6(7) "b" of the Code.

770—136.9(234) Independent living. An independent living arrangement shall be used to prepare the child for self-support and care.

136.9(1) To be considered for independent placement a child shall meet all of the following conditions:

- a. Be at least sixteen and one-half years old but less than eighteen years old.
- b. Be under the legal custody or guardianship of the department.
- c. Be working full-time or be attending school and working part-time.
- d. Have demonstrated a capacity to be self-maintaining.

136.9(2) A child who is not currently employed may be placed in independent living only with prior approval of the state director.

136.9(3) The case plan for a child in independent living shall demonstrate that the child will be independent by age eighteen before such child can be approved for independent living.

136.9(4) All requests for independent living shall be approved by the district administrator of the district where the child resides. The district administrator or designee shall review all independent placements quarterly as to appropriateness and make any necessary adjustments.

This rule is intended to implement section 234.6(7)“b” of the Code.

770—136.10(234) Services to foster parents. Foster parents shall be provided necessary supportive services for the purpose of aiding them in the care and supervision of the child. These services shall include, but not be limited to:

136.10(1) Availability of social service staff on a twenty-four-hour basis in case of emergency.

136.10(2) Conferences to develop in-depth planning regarding family visits, expectations of the department, future objectives and time frames, use of resources, and termination of placements.

136.10(3) Visitation by the service worker at least monthly regardless of the duration of the placements.

136.10(4) Making available all known pertinent information needed for the care of the child.

This rule is intended to implement section 234.6(7)“b” of the Code.

770—136.11(234) Services to the child. The service worker shall maintain a continuous relationship with the child and help the child plan for the future, evaluate the child's needs and progress, supervise the living arrangement, arrange for services from other resources as needed, and counsel the child in adjusting to the placement.

136.11(1) When the child is placed in a foster family home, visits to the child shall be at least monthly to provide any needed services and review the progress of the child.

136.11(2) When the child is placed with an agency, the services worker shall visit the child at least every six weeks to fulfill responsibilities set forth in the case plan and to review the progress of the child.

This rule is intended to implement section 234.6(7)“b” of the Code.

770—136.12(234) Services to natural parents.

136.12(1) Services shall be made available to the natural parents throughout the period of placement for the purpose of reuniting the family in an agreed upon time frame.

136.12(2) The natural parents shall be notified of the location and nature of the child's placement, unless it is documented in the child's case record that to do so would be disruptive to the placement.

136.12(3) The case plan shall specify the services to be provided and the time frame for reuniting the family. This plan shall be developed in co-operation with the natural parents.

136.12(4) Personal contact shall be made at least monthly with the natural parents and the progress towards goals attainment reviewed and such progress documented in the case record.

This rule is intended to implement section 234.6(7)“b” of the Code.

770—136.13(234) Removal of the child.

136.13(1) The department shall notify the facility in writing ten days in advance of plans to remove the child, except no notice will be required when the parent or guardian removes the child in the case of voluntary placement, or when the court orders removal of a child from placement, or when there is evidence of neglect or physical or sexual abuse.

136.13(2) The department may remove a child from a facility when any of the following conditions exist:

- a. There is evidence of abuse, neglect, or exploitation of the child.
- b. The child needs a specialized service that the facility doesn't offer.
- c. The child is unable to benefit from the placement as evidenced by lack of progress of the child.
- d. There is evidence the facility is unable to provide the care needed by the child and fulfill its responsibilities under the case plan.
- e. There is a lack of co-operation of the facility with the department.

136.13(3) When the facility requests a child be removed from its care, it shall give a minimum of ten days' notice to the department so planning may be made on behalf of the child.

This rule is intended to implement section 234.6(7) "b" of the Code.

770—136.14(234) Termination. The foster care services shall be terminated when the child is no longer an eligible child, or when the attainment of goals in the case plan has been achieved, or when such goals for whatever reasons cannot be achieved, or when it is evident that the family or individual is unable to benefit from the service or unwilling to accept further services.

This rule is intended to implement section 234.6(7) "b" of the Code.

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CHAPTER 137 PAYMENTS FOR FOSTER CARE

770—137.1(234) Parent liability. The liability of parents to a child in foster care shall be based on the parents' income. Income in these rules shall mean gross income less deductions for social security, federal and state taxes, and other mandatory deductions. When a dependent child in the home has unearned income, the parent shall have the option of including such child and the income or excluding such child and the income when determining the family size for assessing parental liability.

137.1(1) When a child is in foster care, the liability of the parents to each child shall be ten percent of their income above the public assistance standards per child, not to exceed the actual cost of maintenance per child unless child support of a different amount is ordered by the court.

a. The child in placement shall be considered a member of the family when determining the family size for assessing parental liability.

b. Any parent who is receiving aid to dependent children or supplemental security income benefits shall not have any parental liability.

c. When a child's parents have a legal separation, divorce or dissolution, the liability of each parent shall not exceed one-half of the cost of maintenance per child, unless child support of a different amount is ordered by the court.

d. When the child is in foster care for less than a full month, parental liability shall be assessed for each day the child is in placement at a rate of one-thirtieth of the assessed liability per day.

e. When there is a stepparent in the home of a custodial parent, this person's income will be included when considering parental liability for support of a foster child, if the stepparent was living in the home at the time of the child's placement in foster care.

f. Parental liability for parents of mentally retarded children in foster care shall be assessed in the same manner as any other parent, but shall not exceed the limit placed by section 222.78 of the Code.

g. Any parent for whom parental rights have been terminated shall have no parental liability.

137.1(2) When placement is made on a voluntary basis, the parent or guardian shall complete and sign form SS-2604, Voluntary Placement Agreement.

137.1(3) When the parent or person responsible for the cost of maintenance fails to co-operate in providing information necessary to determine such person's income and resources, or fails to pay the computed liability, the liability of said person shall be one hundred percent of the actual and necessary cost of maintenance.

137.1(4) The parent or other caretaker of the child shall assign any child support payments to the department. Such assignment shall be made on form CS-3104-0, Assignment of Support Payments—Foster Care.

This rule is intended to implement section 234.39 of the Code.

770—137.2(234) Liability reduction. The Iowa department of social services has the authority to recommend reduction or waiver of the liability of a parent on the basis of undue hardship. The department shall weigh the evidence submitted and determine a reasonable basis for payment that will not constitute a financial hardship and put an unreasonable burden on the parent. The following expenses may be deducted from income before determining liability.

137.2(1) Medical expenses in excess of three percent of the income.

137.2(2) Shelter costs in excess of thirty percent of the income.

137.2(3) Utility costs, not including the cost of a telephone, in excess of fifteen percent of the income.

137.2(4) The cost of education expenses of special educational programs, such as financing a college education or special training, for one or more members of the family, the cost of which is not exempt from taxes.

137.2(5) The cost of child support or day care for a child outside the home and not in foster care.

137.2(6) Any other documented expenses that cause undue hardship on the family shall be approved by the district administrator before a deduction is made.

This rule is intended to implement section 234.39 of the Code.

770—137.3(234) Other state statutes. When there are other state statutes which limit the parents' liability, such statutes shall be followed instead of these rules.

This rule is intended to implement section 234.39 of the Code.

770—137.4(234) Court ordered placements. Parental liability for court ordered placements shall be assessed in the same manner as for a child placed under a voluntary placement agreement except that no liability shall be assessed against the parent of a child while the child is in a state institution which is designated as being under control of the commissioner of the Iowa department of social services, pursuant to section 218.1 of the Code. The department shall be responsible for paying for foster care for only those children whose legal custody is transferred to the department or who are committed to the commissioner or designee.

This rule is intended to implement section 234.39 of the Code.

770—137.5(234) Voluntary payment. Nothing in these rules shall preclude a parent from voluntarily paying a larger amount.

770—137.6(234)* Rate of payment. A monthly payment for foster family home care shall be made to the operator of the foster care facility based on the following schedule. For any year in which the legislature appropriates sufficient funds, the schedule shall be adjusted to reflect cost of living levels.

Age of child	Monthly rate
0 through 5	\$143
6 through 11	\$187
12 through 15	\$231
16 and over	\$242

770—137.7(234) Specialized care.

137.7(1) When a child has a special need for care and supervision due to a handicapping condition of a physical, mental, emotional, social, or educational nature which requires activities on the part of the foster parent above and beyond those normally required in caring for a child, upon recommendation of the social worker, an additional amount may be authorized with the approval of the county director or social service administrator. Such amount shall be based on the severity of the child's handicap and the amount of extra effort required on the part of the foster parents.

Such additional payment may be in the amount of forty-five dollars per month for a mild handicap, requiring a moderate amount of extra effort by the foster parents, sixty-five dollars per month for a moderate handicap requiring a substantial amount of extra effort by the foster parents, or eighty-five dollars per month for a severe handicap requiring almost constant extra effort on the part of the foster parents.

137.7(2) When a child is receiving care in a licensed residential or intermediate care facility, and is not eligible for supplemental security income or state supplementary assistance, the department will pay for such care in accordance with departmental standards for such care.

770—137.8(234) Special needs.

137.8(1) Clothing allowance. When in the judgment of the worker clothing is needed at the initial placement of a child in a foster family home, an allowance may be authorized, not to exceed one hundred dollars, to purchase such clothing. A second clothing allowance, not to exceed one hundred dollars, may be approved by the district administrator when needed for the replacement of lost clothing. The claim for all such expenses shall be submitted to the department of social services on a No. 1 Voucher.

137.8(2) Transportation for medical care. When for any month a foster child has expenses for transportation to receive medical care in excess of the maximum allowed in the medical assistance program, or that cannot be met by the allowance for specialized care, such expenses may be paid from foster care funds, with the approval of the district administrator, department of social services. The claim for all such expenses shall be submitted to the department of social services on a No. 1 Voucher. Payment through the medical assistance program will not be made for that month. Such expenses may include

*Emergency, pursuant to §17A.5(2)"b"(2) of the Code.

CHAPTER 139 ADOPTION SERVICES

770—139.1(600) Application. Persons wishing to adopt a child who is legally free for adoption and under the guardianship of the department of social services shall make application on form SS-6101-4, Application for Adoption.

This rule is intended to implement chapter 600 of the Code.

770—139.2(600) Foster parents. Foster parents who wish to adopt a child considered hard to place or who have had a child not considered hard to place in their care for a period of one year or more shall be given first consideration in selection of an adoptive home for that child.

This rule is intended to implement section 600.1 of the Code.

770—139.3(600) Termination of parental rights. The Iowa department of social services shall place a child in an adoptive home only after termination of parental rights.

This rule is intended to implement chapter 600 of the Code.

770—139.4(600) Certification of investigator.

139.4(1) Application. Application for certification shall be made on form SS-6105-0, Application for Certification of Adoption Investigator.

139.4(2) Qualifications for investigator. The investigator shall meet qualifications in either paragraph "a" or paragraph "b" below.

***a. Education and experience for certification.**

(1) Graduation from an accredited four year college or university and at least three years of experience working at least fifty percent of the time in adoptions; or

(2) A bachelor's degree in social work from a program accredited by the council on social work education from an accredited four year college or university and at least two years of experience working at least fifty percent of the time in adoptions; or

(3) An equivalent combination of graduate education in the social or behavioral sciences from an accredited college or university and qualifying experience up to a maximum of thirty semester hours for one year of the required experience; or

(4) A master's degree in social work from a program accredited by the council on social work education from an accredited college or university and at least one year of experience working at least fifty percent of the time in adoptions.

b. For approval, the person shall be currently employed as a social worker in a licensed child-placing agency or the department of social services. A certificate will not be issued to such employees. Approval shall extend only for those acts performed within the course and scope of the approved person's employment.

139.4(3) Verification of qualifications.

a. The applicant shall provide a transcript of college credits.

b. The applicant shall give names of at least two references who shall be contacted by the certifier.

c. Experience shall be documented.

139.4(4) Conditions for denial of certification. Certification shall be denied when:

a. The applicant does not meet one or more qualifications listed in subrule 139.4(2)"a"; or

b. The applicant does not provide verification required in 139.4(3); or

c. More than one reference does not recommend certification; or

d. The applicant has willfully or knowingly provided false information regarding qualifications for certification.

139.4(5) Time limit. The investigator shall be certified for two years. Certification shall expire at the end of two years unless the investigator is recertified. No provisional certificates shall be issued.

139.4(6) *Renewal of certification.* A currently certified investigator who wishes to be recertified shall notify the department of such in writing at least thirty days but no more than sixty days prior to the expiration of the certification. Notice shall be sent to the Licensing Section, Department of Social Services, Hoover State Office Building, Des Moines, Iowa. Upon timely receipt of the request for recertification, the department shall notify the investigator of the recertification. When the request is not received prior to the date of expiration, the department shall notify the investigator that the certification has been cancelled. To be recertified, the person shall submit a new application on form SS-6105-0, Application for Certification for Adoption Investigator.

139.4(7) *Conditions for revocation of certification, or approval.* Certification may be revoked when any of the following conditions exist:

a. After complaints about the certified investigator or approved agency employee are received and verified by the department of social services when the effect of the actions would be detrimental to any of the parties involved in the adoption.

b. When the investigator or approved agency employee has misrepresented in required reports any information obtained in the course of the investigation.

c. When the investigator or approved agency employee has placed duress or undue pressure on participants in any portion of the adoption process.

d. When there is evidence that the investigator willfully and knowingly misrepresented information regarding qualifications in order to become certified.

139.4(8) *Form of certificate.* The certificate shall contain the name of the investigator and the expiration date of the certificate, and be signed by a person designated by the commissioner of the department of social services.

139.4(9) *Records of certification.*

a. The Iowa department of social services shall keep records of certifications which shall include the application and verifications.

b. The department shall keep an alphabetical list of certified investigators, by districts, which shall be updated regularly. Lists of certified investigators shall be furnished to all district offices of the department and to any person who requests a list.

This rule is intended to implement section 600.2(2) of the Code.

770—139.5(600) *Fees for certified investigator.* Certified investigators may charge a fee for services rendered pursuant to and in compliance with the provisions of section 600.8, subsection 6, of the Code. The department shall be notified by the investigator concerning a total fee charged any family in excess of \$500 and the notice shall be accompanied by an itemized statement of charges. Notice of fees in excess of \$500 shall be addressed to the Licensing Section, Department of Social Services, Hoover State Office Building, Des Moines, Iowa.

This rule is intended to implement section 600.8(6) of the Code.

770—139.6(600) *Investigations and reports.* Requests for preplacement investigations received by the department shall be referred to a private agency or a certified investigator unless one of the following exists:

139.6(1) *Fee.* The client is unable to pay the cost of service according to the fee schedule guidelines.

139.6(2) *Hard to place child.* The client is interested in adopting a hard to place child.

139.6(3) *Preference.* The client prefers that the department provide the service, depending upon availability of staff.

This rule is intended to implement section 600.8(3) of the Code.

770—139.7(600) *Department fees for adoptive parents.*

139.7(1) *Cost of service.* The adoptive parents shall be charged for the cost of service according to fee schedules based on the reasonable cost of providing the service. Fee schedules shall be compiled by the department for:

a. Preplacement studies.

- b. Postplacement studies.
- c. Postplacement supervision.
- d. Any supplemental reports required.

139.7(2) *Verification of income.* Income shall be verified by inspecting the adoptive parents' latest federal income tax report. A copy of such report shall be kept in the parents' record.

139.7(3) *Waiver of fee.* The fee shall be waived for any family wanting to adopt a physically or mentally handicapped child, a child six years of age or older, a sibling group, or an otherwise hard to place child.

This rule is intended to implement section 600.8(6) of the Code.

770—139.8(600) *Interstate placements.* Interstate placements shall follow interstate compact on placement of children procedures according to section 238.33 of the Code.

This rule is intended to implement chapter 600 of the Code.

770—139.9(600) *Foreign and international adoptions.* Foreign and international adoptions shall follow the procedures for interstate compact on the placement of children, section 238.33 of the Code, when applicable. When the compact is not applicable, a child will only be placed after the department has been furnished a preplacement investigation report as required by section 600.8 of the Code, documents which demonstrate the child is legally free for adoption, and all available medical and social information concerning the child.

This rule is intended to implement section 600.15 of the Code.

770—139.10(600) *Research.*

139.10(1) *Requests.* Any person seeking access to information for the purpose or purposes set forth in section 600.16(1)“c” of the Code, shall submit a request to the commissioner. Each request shall contain sufficient facts to establish that the information sought is necessary for conducting a legitimate research project or for treating a patient in a medical facility.

139.10(2) *Committee.* Upon receipt of a request for information sought in conducting a research project, the commissioner shall appoint a committee consisting of no less than three departmental employees. Research requests shall be approved or denied by this committee. On a request for information for treating a patient in a medical facility, approval shall be by the commissioner or designee.

This rule is intended to implement section 600.24“c” of the Code.

770—139.11(600) *Appeals.* Certified investigators or applicants may appeal decisions of the department and prospective adoptive parents may appeal nonapproval by the person making the investigation according to rules in 770—chapter 7.

This rule is intended to implement sections 600.2(2) and 600.8“b” of the Code.

770—139.12(600) *Notice of adoption hearing.* When notice of adoption hearing is served to the department, such service shall be made to the director, division of community programs, department of social services.

This rule is intended to implement section 600.11 of the Code.

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2. The second part outlines the various methods and tools used to collect and analyze data. It mentions the use of surveys, interviews, and focus groups to gather information from stakeholders. Additionally, it discusses the application of statistical analysis to interpret the collected data.

3. The third part describes the process of identifying trends and patterns in the data. It highlights the need for a systematic approach to data analysis, involving the identification of key variables and the use of appropriate statistical techniques.

4. The fourth part focuses on the communication of findings to the relevant stakeholders. It stresses the importance of presenting the results in a clear and concise manner, using visual aids such as charts and graphs to enhance understanding.

5. The fifth part discusses the implications of the findings for the organization's strategy and decision-making. It suggests that the insights gained from the research should be used to inform the development of policies and procedures, as well as to guide the allocation of resources.

6. The sixth part provides a summary of the key points discussed in the document. It reiterates the importance of data-driven decision-making and the role of research in achieving organizational success.

7. The final part of the document includes a list of references and a bibliography. It cites various academic sources and reports that have been consulted during the research process.

CHAPTER 140
FAMILY PLANNING SERVICES

770—140.1(234) Definitions.

140.1(1) *Delegate agency.* Whenever delegate agency is used in these rules, it shall mean a family planning center which has an administrative and financial relationship with the state department of health.

140.1(2) *Family planning educational services.* Family planning education services are services including group or individual discussions with clients informing them of the various types of birth control methods available and where they may be obtained.

140.1(3) *Clinical care services.* Clinical care services include those services which assist a client in obtaining contraceptive devices and supplies from health practitioner resource persons such as physicians, nurse clinician, health clinic pharmacy or family planning center, in accordance with Iowa law.

770—140.2(234) *Eligibility.* Those persons eligible for services from the department shall be eligible for family planning services.

770—140.3(234) Choice of provider.

140.3(1) Individuals shall be assured a choice of provider of services.

140.3(2) When the department pays for the services under a purchase of service contract with the health department, the services must be provided by a delegate agency.

770—140.4(234) *Direct referrals.* All persons who are income maintenance or services clients of the department and any other client requesting information on family planning, shall be offered family planning services and referred to either a private physician or delegate agency.

770—140.5(234) *Outside referrals.* When a client goes directly to a delegate agency without referral by the department, the delegate agency shall make the preliminary determination of eligibility based on information provided by the client and shall then refer the information back to the department for final determination of eligibility.

770—140.6(234) *Family planning liaison worker.* The family planning liaison worker in the local offices of the department of social services shall be the primary contact person for clients requesting family planning services and shall have final responsibility for determining eligibility of clients requesting family planning services.

770—140.7(234) *Need.* In determining the need for family planning services, the family planning liaison worker shall take the following factors into consideration.

140.7(1) Family limitation, as when parents regard their current family as complete and want no more children.

140.7(2) Child-spacing, when parents seek a longer interval between the births of their children.

140.7(3) A mother's inability to cope with several small children.

140.7(4) A marital conflict which may be at least partially related to the earlier birth of unwanted children.

140.7(5) The presence in the home of a seriously handicapped child or adult with an emotional problem, which requires special, time-consuming and emotionally and physically draining supervision by the mother.

140.7(6) The mother's desire to seek employment outside the home.

140.7(7) Adolescent sexual activity as a social indication of the need for family planning services.

140.7(8) The possibility or the presence of neglect or abuse as an indication of the presence of an unwanted child in the home.

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CHAPTER 141 CHILDREN IN NEED OF ASSISTANCE OR CHILDREN FOUND TO HAVE COMMITTED A DELINQUENT ACT

770—141.(232) Rescinded, effective November 7, 1979.

770—141.2(232) Placement. This rule applies only to those children adjudicated under chapter 232 of the Code prior to July 1, 1979. Before a youth is placed from one of the children's institutions, a Placement Contract, Form SS-3605-0 which outlines the conditions of the placement, shall be signed by the youth, superintendent, field social worker and parents.

770—141.3(232) Return from placement to children's institutions for violation of placement contract. This rule applies only to those children adjudicated under chapter 232 of the Code prior to July 1, 1979.

141.3(1) A youth may be returned to a children's institution for violation of placement contract (parole).

141.3(2) Upon an initial determination by the department of social services' service worker that the youth has violated the youth's placement contract (parole), the youth may be held in a children's institution or other appropriate facility pending a hearing or informal settlement of the matter. In the event a hearing is required, said hearing shall be held within fifteen calendar days of the date from which the youth is held. Nothing in this rule shall be construed to mean that a child in need of assistance may be held at the Iowa training school for boys or the Iowa training school for girls.

770—141.4(232) Hearing procedure for violation of placement contract (parole). This rule applies only to those children adjudicated under chapter 232 of the Code prior to July 1, 1979. The following procedures shall be followed, notwithstanding any conflicting rules in chapter 7 of social services rules in returning a youth to a children's institution for parole violation, unless the return is ordered by an Iowa court.

141.4(1) Informal settlements of controversies are encouraged. (See Section 17A.10 of the Code of Iowa.) Nothing herein shall be in derogation of the youth's right to a hearing. Any waiver of hearing by a youth must be willful and voluntary. It shall be the duty of the service worker to fully inform the youth of the right to a hearing. When a youth waives hearing, however, form SS-3809-0, Waiver of Parole Violation Hearing, shall be signed by the youth and a copy sent to such youth's parents or person responsible for such youth.

141.4(2) When the youth does not waive hearing, the department of social services' service worker shall immediately contact the office of appeals and fair hearings to schedule a hearing. Written notice shall be given to such youth or sent to such youth by the service worker in accordance with subrule 7.9(4), paragraph "b". A copy shall be sent to such youth's parents or person responsible for such youth. The notice of hearing shall be given or sent to the youth at least five calendar days before the hearing and the notice shall contain the following:

a. A statement of the time, place and nature of the hearing.
b. A statement of the legal authority and jurisdiction under which the hearing is to be held.

c. A reference to the particular sections of the statutes and rules involved.

d. A short and plain statement of the matters asserted.

141.4(3) In the event the youth fails to appear after proper service of notice, the presiding officer may, if no adjournment is granted, proceed with the hearing and make a decision in the absence of the youth.

141.4(4) Opportunities shall be offered to the youth to respond and present evidence and arguments on all issues involved and to be represented by counsel at such youth's own expense.

As an alternative to legal counsel, such youth may bring another adult to speak in such youth's behalf as counsel, but such adult person may not be the youth's parents or person responsible for such youth. The youth's parents shall be notified and requested to attend such hearing.

141.4(5) The record in this hearing shall include:

a. All pleadings, motions and intermediate rulings.

b. All evidence received or considered and all other submissions.

c. A statement of all matters officially noticed.

d. All questions and offers of proof, objections and rulings thereon.

e. All proposed findings and exceptions.

f. Any decision opinion or report by the officer presiding at the hearing.

141.4(6) The proceedings shall be recorded either by mechanized means or by certified shorthand reporters. Oral proceedings or any part thereof shall be transcribed at the request of any party with the expense of the transcription charged to the requesting party. The recording or stenographic notes of oral proceedings or the transcription thereof shall be filed with and maintained by the agency for at least five years from the date of decision.

141.4(7) Findings of fact shall be based solely on the evidence in the record and on matters officially noticed in the record. (Section 17A.12 of the Code.) The issue to be resolved in said hearing shall be whether the youth has broken the placement contract (parole).

141.4(8) All other conduct of the hearing shall be in accordance with chapter 17A of the Code and rules of the department, chapter 7.

This rule is intended to implement sections 17A.10, 17A.12 and 17A.22 of the Code.

770—141.5(232)* Reimbursement to counties.

141.5(1) *Base cost computation requirement.* The county auditor of each county shall submit, on or before August 15, 1979, the computed amount the county shall be required to expend as its base cost, pursuant to the provisions of section 232.141(4)"a" of the Code.

a. Form AA-2038-0, Form for Use in Computing Base Cost, shall be used by the county auditor to supply the required information and shall be submitted in triplicate.

b. The form shall be submitted to Department of Social Services, Division of Administration, First Floor, Hoover State Office Building, Des Moines, Iowa 50319.

c. Failure on the part of the county auditor to furnish the base cost computation as required by these rules shall result in denial by the department of claims for reimbursement submitted by the county.

d. Each county auditor shall maintain and make available upon request to the bureau of accounts and audits, division of administrative services, department of social services, the records used in computing the county's base cost. These records shall be subject to audit by the department's bureau of audits.

141.5(2) *Reporting procedure.* The county auditor of each county shall submit monthly, on form AA-2244-0, Report of Expenditures, a report of all those costs enumerated in section 232.141(1) "a", "b", "c", "d" and "e" of the Code, that have been incurred and paid by the county.

*Emergency, pursuant to §17A.5(2)"b"(2) of the Code.

a. The report shall be submitted to Department of Social Services, Division of Administration, First Floor, Hoover State Office Building, Des Moines, Iowa 50319.

b. The report shall be submitted by the fifteenth day of the month following the month for which the report is being submitted with the first such report to cover the month of July, 1979 and to be submitted by August 15, 1979. A monthly report shall continue to be submitted on or before the fifteenth day of each month thereafter.

c. The monthly report shall be accompanied by a letter of transmittal setting forth the county's computed base cost amount, the total amount of costs covered by the report being submitted, and the current total of all those enumerated costs that have been paid by the county during the current fiscal year. The letter of transmittal shall also set forth the amount remaining, if any, of the base cost amount to be paid by the county during the current fiscal year.

d. When the county has expended its base cost amount during the current fiscal year for those statutorily enumerated costs, the county auditor shall include two copies of the State Voucher 1 with the completed form AA-2244-0, Report of Expenditure, and submit for state reimbursement as set forth in these rules.

e. Each county auditor shall maintain and make available upon request to the bureau of audits, division of administration, department of social services, the records used in submitting this monthly report of expenditures. These records shall be subject to audit by the department's bureau of audits.

141.5(3) *Reimbursement requirement.* Each county shall pay those costs as enumerated in section 232.141(1) "a", "b", "c", "d", and "e" of the Code, prior to submitting such costs for reimbursement.

a. The county auditor of each county shall be responsible for submitting claims for reimbursement of those enumerated costs paid by the county.

b. Form AA-2244-0, Report of Expenditures, shall be used by the county auditors in submitting claims for payment.

c. Claims shall be attached to a completed Voucher 1 when being submitted for state reimbursement.

d. Claims shall be submitted for payment to Department of Social Services, Division of Administration, First Floor, Hoover State Office Building, Des Moines, Iowa 50319.

e. Claims shall be submitted monthly, on or before the fifteenth day of the month following the month for which the claim is being submitted.

f. Each county auditor shall maintain and make available upon request to the bureau of audits, division of administration, department of social services, the records used in submitting claims for reimbursement. The records shall be subject to audit by the department's bureau of audits.

g. In the event an audit of the base cost amount submitted by the county fails to verify such amount the county shall reimburse the department for the amount the state has paid the county that is represented by the difference between the amount submitted by the county and the amount verified upon audit.

h. Failure on the part of the county to maintain adequate records for auditing purposes or failure to make such records available for auditing or in the event such records, upon audit, fail to support the claims submitted, the county shall reimburse the department for any monies not thus supported by audit.

This rule is intended to implement section 232.141 of the Code and Acts of the Sixty-eighth General Assembly, 1979 session, H.F. 462.

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CHAPTER 142
INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

770—142.1(238) Compact agreement. As a member of the interstate compact on placement of children, the department of social services shall co-operate on interstate aspects of placements preliminary to possible adoptions, placements in foster care where no adoption is contemplated, placements with any parent or relative, and institutional placements of adjudicated children in need of assistance needing special services or programs not available within the state. Any public or private agency instrumental in placement of a child in Iowa or from Iowa and in such public or private agency's custody shall go through the interstate compact on placement of children.

770—142.2(238) Compact administrator.

142.2(1) The compact administrator may appoint up to three deputy compact administrators to serve as active members of the association of the interstate compact on the placement of children and who shall be responsible for day to day operation of the interstate compact.

142.2(2) The compact administrator shall be responsible for the administration of the compact between such compact administrator's state and other contracting states.

Rules 142.1(238) and 142.2(238) are intended to implement section 238.33 of the Code.

770—142.3(238) Article II(d). For the purposes of article II(d), a child caring agency or institution shall not include any institution caring for the mentally ill, mentally defective or epileptic; or any institution primarily educational in character; or any hospital or other medical facility.

770—142.4(238) Article III(a). For the purposes of article III(a), "sending state" shall mean "sending agency".

770—142.5(238) Article III(a) procedures.

142.5(1) All intended placements in Iowa or from Iowa coming under the purview of this compact shall be referred to the interstate compact unit, bureau of children's services, department of social services.

142.5(2) All persons involved in the placement of a child into Iowa or from Iowa into another state shall meet all the placement requirements of the receiving state prior to the actual placement.

142.5(3) Supervision of placements made by persons or agencies outside of Iowa shall be provided by a licensed Iowa agency, the department of social services, or an Iowa certified adoption investigator. Exempted from this provision are:

a. Any agency licensed as a child-placing agency in another state which has its principal place of business in a county directly adjacent to an Iowa border may practice in the Iowa counties contiguous to the out-of-state county.

b. Placement in a facility for treatment that is licensed by the department unless the department specifies that the supervision must be provided by the department for all placements in any particular facility.

770—142.6(238) Article III(c). A child may be placed in Iowa preliminary to adoption only when:

142.6(1) The child is legally available for adoption at the time of placement as attested to by the sending state's compact designee submitting the certified legal documents issued according to the statutes of the sending state and citation of the statutes of that state which are applicable.

142.6(2) There has been a preplacement investigation by an authorized person or agency in Iowa, such investigation has been made available to the Iowa interstate compact unit, the investigation has been made within the past year, and the sending state intending to place the child has been notified that the home has been approved for an adoptive placement in Iowa.

770—142.7(238) Article VIII(a). For the purpose of article VIII(a), relative shall mean step-parent, grandparent, adult brother or sister, or adult uncle or aunt, and guardian shall mean any guardian other than that appointed as preliminary to adoption.

770—142.8(238) Applicability. The requirements of this compact shall be in effect for all placements into Iowa from any state or from Iowa to any state within the United States and the District of Columbia.

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[Filed 9/6/79, Notice 6/27/79—published 10/3/79, effective 11/7/79]

CHAPTER 143 INTERSTATE COMPACT ON JUVENILES

770—143.1(231) Compact agreement. As a member of the interstate compact on juveniles, Iowa is in a contractual agreement with the other 49 states, the District of Columbia, Puerto Rico and Guam, in which the department of social services shall cooperate on interstate aspects of juvenile delinquency, and the return from one state to another of non-delinquent children who have run away from home.

This rule is intended to implement section 232.139 of the Code.

770—143.2(231) Compact administrator.

143.2(1) The compact administrator may appoint up to three deputy compact administrators to serve as active members of the association of juvenile compact administrators and who shall be responsible for day to day operation of the interstate compact.

143.2(2) The compact administrator shall be responsible for the administration of the compact between such compact administrator's state and other contracting states.

This rule is intended to implement section 232.139 of the Code.

770—143.3(231) Sending a juvenile out of Iowa under the compact.

143.3(1) Local officials requesting to transfer a juvenile to another state shall work through the office of the interstate compact administrator. All persons using the compact shall comply with the official rule and regulations promulgated by the compact administrator under authority of the compact.

143.3(2) Interstate Compact Form IA, Application for Compact Services; and Form Interstate Compact Form VI, Memorandum of Understanding and Waiver shall be signed by the juvenile and parents or guardian.

CHAPTER 19*
**GENERAL REQUIREMENTS FOR IMPLEMENTING THE HIGHWAY BRIDGE
REPLACEMENT PROGRAM**

820—[06,Q]19.1(307A) Source of funds. The Surface Transportation Assistance Act of 1978 provides funds for the replacement or rehabilitation of highway bridges. The highway bridge replacement program is codified as section 144 of Title 23 of the United States Code. Funds were authorized for fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982. Funds are available for obligation for two years after the year in which they are authorized. At least fifteen percent, but not more than thirty-five percent of the funds shall be expended to replace or rehabilitate bridges on public roads which are not part of a federal aid system.

820—[06,Q]19.2(307A) Administration of funds. According to said 1978 Act, sums apportioned to a state are to be made available for obligation throughout the state on a fair and equitable basis.

The funds for this program shall be divided into three separate funds: One for the state; one for the counties; and one for the cities. The 1979 apportionment shall be divided as follows: 50% (\$7,493,264) to the state; 42.25% (\$6,331,809) to the counties; and 7.75% (\$1,161,456) to the cities.

Funds for subsequent years shall be divided in a similar manner as determined by the department after consultation with county and city officials through their representative organizations.

19.2(1) The state share shall be administered by the department.

19.2(2) The county share shall be administered by the office of secondary roads. It shall consist of two funds: At least 1.65% shall be distributed at the discretion of the office of secondary roads and not more than 40.6% shall be distributed to the counties as outlined in subrule 19.2(2) paragraph "b" of these rules.

a. County discretionary funds. At least 1.65% of each year's funds shall be a discretionary fund for county bridges. Counties may submit candidate projects. The department shall select projects and amount of funding. Federal reimbursement shall not exceed eighty percent of the cost of the bridge.

An agreement to participate shall be developed to fit the project needs and shall be signed by the county and the state prior to project development. In general, the county shall agree to develop the project in compliance with federal requirements, to pay the full cost of the work and submit a statement at the completion of the work in order that the state may submit a claim for reimbursement for federal funds earned by the project. The county shall further agree to adequately inspect and document the work done and retain all records needed for an audit of the cost.

b. County funds to be distributed. Not more than 40.6% of each year's funds shall be distributed on the basis of the state farm-to-market distribution formula. The reimbursement by the federal government of up to eighty percent of the costs of completed projects shall follow the procedure used for the Federal Aid Secondary program. Under this procedure counties with bridges which meet the criteria and are approved for this highway bridge replacement program shall be responsible for the replacement and initial financing of those bridges. The federal reimbursement for the completed projects shall go into the farm-to-market fund for distribution to all counties on the basis of the need and area factors cited in section 312.5 of the Code.

19.2(3) The city share shall be administered by the office of urban systems in accordance with 820—[06,P] chapter 6, IAC.

19.2(4) The department shall select the appropriate number of projects for development by cities and counties to assure at least fifteen percent, but not more than thirty-five per-

*Emergency, pursuant to §17A.5(2)"b"(2) of the Code.

cent, is expended on bridges on public roads which are not part of a federal aid system.

19.2(5) In order for projects to be eligible, the bridge must have a sufficiency rating that complies with federal requirements.

These rules are intended to implement section 307A.4 of the Code.

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