
LEGAL UPDATE

Legal Services Division



Ground Floor, State Capitol Building

Des Moines, Iowa 50319

515.281.3566

ADMINISTRATIVE RULES REVIEW COMMITTEE MEETING - SEPTEMBER 10, 2019

Purpose. *Legal updates are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update is intended to provide legislators, legislative staff, and other persons interested in legislative matters with summaries of recent meetings, court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although an update may identify issues for consideration by the General Assembly, it should not be interpreted as advocating any particular course of action.*

LIBRARIES AND INFORMATION SERVICES DIVISION, Definition of "Public Library," 8/14/19 ARC 4605C, NOTICE.

Background. This rulemaking establishes the definition of "public library," which determines a library's eligibility to receive funding and consulting services from the State Library and to participate in its programs. The definition of "public library" includes the criterion that the library has paid staff.

Commentary. Mr. Michael Scott represented the division and responded to questions. Committee members inquired how many libraries would close under this rulemaking. Mr. Scott responded that eight libraries would potentially close if this rulemaking were adopted. Many committee members expressed disapproval of the rulemaking for penalizing libraries for not having paid staff and recommended that the rulemaking not include this provision. Committee members suggested that libraries should not be penalized for utilizing volunteers. Other committee members noted that the rulemaking does not prevent a library without paid staff from being a library, it merely provides that such a library cannot access state funding. Committee members noted that the term "paid staff" was not defined in the rulemaking and opined that the term could be interpreted creatively by cities to keep their libraries open while only paying their staff a nominal amount. Committee members conveyed that the state should be facilitating libraries, not stifling them through rulemaking. Mr. Scott suggested that these communities should utilize their limited funding to contract with a nearby community library in order to receive services.

In response to an inquiry from committee members, Mr. Scott stated that libraries which did not meet the definition of "public library" would be ineligible for funding through the Enrich Iowa Program which covers the following three elements: 1) direct state aid to public libraries, 2) an exchange program that allows an Iowa library card holder to use their library card at another Iowa library, and 3) the interlibrary loan program.

Mr. Scott mentioned that a quality present in almost all eight libraries that could close under the proposed rulemaking is that the city is not adequately funding the library. Certain committee members encouraged the cities to increase funding for their local libraries. Other committee members asked if cities were withholding funding for their libraries due to lack of funds or due to improper activity by the local library. Mr. Scott responded that in the one case he was aware of the city council seemed to be not supportive of the library in general; in other cases, he was unsure.

Committee members stated the rulemaking needs work and encouraged the division to revise the rulemaking prior to adoption.

Action Taken. No action taken.

DEPARTMENT OF EDUCATION, *School Bus Construction Standards, 8/28/19 IAB, ARC 4637C, ADOPTED.*

Background. This rulemaking outlines construction standards for school buses in Iowa. The amendments reflect changes to the rules to mirror changes in standards as recommended by the National School Transportation Specifications and Procedures Manual 2015 and a department work group, and in requests from the field. The rulemaking requires that seat belts be installed in all new school buses.

Commentary. Ms. Nicole Proesch and Mr. Max Christensen represented the department and responded to questions. Mr. Christensen verified that only newly purchased school buses would be required to have seat belts. Committee members stated that seat belts are standard for school buses now, and thus the requirement may not be necessary. Committee members questioned whether seat belts would be safe in the event of a bus being submerged in water or catching on fire, and Mr. Christensen shared information that such incidents are very rare. Mr. Christensen verified that bus drivers would receive training relating to seat belts and that each bus would include a seat belt cutter. He explained that a cutter is secured with Velcro and is structured so that it would be difficult to cause injury with one. He expressed openness to requiring two cutters on buses to allow for use by another adult in addition to the bus driver.

Committee members asked what the requirements are for bus driver physicals and if the department is considering revising them. Mr. Christensen explained that bus drivers are subject to a physical through the state Department of Transportation in accordance with federal requirements, which must be conducted by a certified medical professional and is valid for up to two years depending on limitations set by the medical professional. He noted that a background check is also required. He stated that the department has discussed modifying the physical requirements. Committee members noted that bus drivers are often older persons, which should be considered when determining physical requirements,

and Mr. Christensen agreed. Ms. Proesch noted that physical requirements could also be a local decision.

Public comments generally supportive of the rulemaking were received from Ms. Margaret Buckton on behalf of Rural School Advocates, Ms. Emily Piper on behalf of the Iowa Association of School Boards, Mr. Chris Darling on behalf of the Iowa Pupil Transportation Association, and Mr. Merrill Mueller, the transportation director for the Algona Community School District.

Action. No action taken.

BOARD OF REGENTS, *Human Resources Management—Merit System Rules, 8/28/19 IAB, ARC 4630C*, NOTICE.

Background. This rulemaking contains a variety of updates to the board's merit system rules, including updates in response to 2017 Iowa Acts, House File 291, which concerned collective bargaining and other matters relating to public employees.

Commentary. Ms. Kristin Bauer and Mr. Trevor Glanz represented the board and responded to questions. Committee members questioned whether a change relating to delays in the reinstatement of suspended merit increases from being applied based solely on seniority to also being based on performance undermined the concept of a merit system, and Mr. Glanz explained that the rule had not been used in 20 years and the board wanted to be able to consider outstanding performances by individual employees when reinstating merit increases. Committee members asked why the rulemaking allows management more flexibility to increase pay within a pay grade, and Mr. Glanz explained that the board has had issues retaining employees and would like the flexibility to handle issues such as counteroffers at the discretion of the merit system director with additional management input and after market analysis. He stated this would not undermine the intent of the merit system. Committee members asked why the board was pursuing the rulemaking now and what the basis of the rulemaking was. Ms. Bauer explained that the rulemaking was necessitated by recent statutory changes relating to the merit system and was based on a variety of factors, including those changes, prior rulemaking by the Department of Administrative Services to implement the changes, and recommendations from work groups at each regents institution. Committee members asked how work retention issues relate to the rulemaking and what worker retention issues regents institutions are facing. Mr. Glanz explained that many of the changes in the rulemaking are for the purpose of worker retention, that certain specific positions such as skilled trades, police officers, and health care professionals are harder to fill, and the rulemaking is intended to make the board's rules more closely align with how the institutions recruit. Committee members asked for data on specific positions that are hard to recruit, and Ms. Bauer agreed to provide it. Committee members stated that the rulemaking would likely be controversial and the board would likely receive public comments.

Action. No action taken.

Next Meeting. The next committee meeting will be held in Room 116, Statehouse, on Tuesday, October 8, 2019, beginning at 9:00 a.m.

LSA Staff Contacts: Jack Ewing, 515.281.6048 or jack.ewing@legis.iowa.gov;
Amber Shanahan-Fricke, 515.725.7354 or amber.shanahan-fricke@legis.iowa.gov
Internet Site: www.legis.iowa.gov/committees/committee?endYear=2019&groupID=705

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