

SCHOOL BUDGET REVIEW COMMITTEE[289]

[Prior to 12/14/88, see School Budget Review[740]]

CHAPTER 1 ORGANIZATION

- 1.1(257) School budget review committee
- 1.2(257) Mailing address
- 1.3(257) Information or submissions

CHAPTER 2 PETITIONS FOR RULE MAKING (Uniform Rules)

- 2.1(17A) Petition for rule making
- 2.3(17A) Inquiries

CHAPTER 3 DECLARATORY RULINGS (Uniform Rules)

- 3.1(17A) Petition for declaratory ruling
- 3.3(17A) Inquiries

CHAPTER 4 AGENCY PROCEDURE FOR RULE MAKING (Uniform Rules)

- 4.3(17A) Public rule-making docket
- 4.4(17A) Notice of proposed rule making
- 4.5(17A) Public participation
- 4.6(17A) Regulatory flexibility analysis
- 4.10(17A) Exemptions from public rule-making procedures
- 4.11(17A) Concise statement of reasons
- 4.13(17A) Agency rule-making record

CHAPTER 5 PUBLIC RECORDS AND FAIR INFORMATION PRACTICES (Uniform Rules)

- 5.1(17A) Definitions
- 5.3(17A) Requests for access to records
- 5.6(17A) Procedure by which additions, dissents, or objections may be entered into certain records
- 5.9(17A) Disclosures without the consent of the subject
- 5.10(17A) Routine use
- 5.11(17A) Availability of records
- 5.12(17A) Rule-making records
- 5.13(17A) Applicability

CHAPTER 6 DUTIES AND OPERATIONAL PROCEDURES

- 6.1(257) Definitions
- 6.2(257) Hearings
- 6.3(257) Hearing procedures
- 6.4(257) General duties
- 6.5(257) Budgets

- 6.6(257) Special needs adjustment program
- 6.7(257) Sharing

CHAPTER 7

ON-TIME FUNDING FOR INCREASED ENROLLMENT

- 7.1(257) Definitions
- 7.2(257) On-time funding eligibility
- 7.3(257) Maximum on-time funding for increased enrollment
- 7.4(257) Due date
- 7.5(257) Waiver

CHAPTER 8

WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES

- 8.1(17A,ExecOrd11) Definitions
- 8.2(17A,ExecOrd11) Scope
- 8.3(17A,ExecOrd11) Applicability
- 8.4(17A,ExecOrd11) Criteria for waiver
- 8.5(17A,ExecOrd11) Filing of petition
- 8.6(17A,ExecOrd11) Content of petition
- 8.7(17A,ExecOrd11) Additional information
- 8.8(17A,ExecOrd11) Notice
- 8.9(17A,ExecOrd11) Hearing procedures
- 8.10(17A,ExecOrd11) Ruling
- 8.11(17A,ExecOrd11) Public availability
- 8.12(17A,ExecOrd11) Summary reports
- 8.13(17A,ExecOrd11) Cancellation
- 8.14(17A,ExecOrd11) Violations
- 8.15(17A,ExecOrd11) Defense
- 8.16(17A,ExecOrd11) Judicial review

CHAPTER 1
ORGANIZATION

[Prior to 10/17/90, see School Budget Review, 289—1.2(442)]

289—1.1(257) School budget review committee. The school budget review committee (SBRC) is established in the department of education for administrative purposes.

1.1(1) *Membership.* The SBRC shall be composed of the following five members:

a. The director of the department of education who shall serve as chairperson and conduct all meetings unless another member of the committee is asked by the director of the department of education to assume this role.

b. The director of the department of management who shall serve as secretary unless direction is given by the director of the department of management to another person to assume this role. The designated secretary shall not be a voting member, unless a regular member of the committee.

c. Three public members who are knowledgeable in the areas of school finance or public finance issues shall be appointed by the governor to represent the public. All committee members shall perform their assigned duties until a replacement has been appointed.

d. The department of education shall employ a staff person to assist the school budget review committee.

1.1(2) *Qualifications of public members.* The three public members shall have general knowledge in the areas of Iowa school finance or public finance. At least one of the public members shall possess a master's or doctoral degree in which areas of school finance, economics or statistics are an integral component, or shall have equivalent experience in an executive administrative or senior research position in the education or public administration field.

1.1(3) *Terms of office.* The public members appointed by the governor shall serve staggered three-year terms beginning and ending as provided in Iowa Code section 69.19. Members appointed by the governor are subject to senate confirmation as provided by Iowa Code section 2.32.

1.1(4) *Compensation.* The committee members representing the public are entitled to receive their necessary expenses while engaged in official duties. In addition they shall be paid a per diem at the rate specified in Iowa Code section 7E.6. Per diem and expense payments shall be made from appropriations to the department of education.

289—1.2(257) Mailing address. The mailing address for all operations of the SBRC is: Grimes State Office Building, Des Moines, Iowa 50319-0146.

289—1.3(257) Information or submissions. Information inquiries or requests for hearings, declaratory rulings, for participation in the rule-making procedures of the SBRC, and for scheduling presentations to the committee should be addressed to the director of the department of education as chairperson of the SBRC.

These rules are intended to implement Iowa Code sections 257.30 and 257.31.

[Filed 3/17/78, Notice 9/21/77—published 4/5/78, effective 5/10/78]

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CHAPTER 2
PETITIONS FOR RULE MAKING

[Prior to 10/17/90, see School Budget Review, 289—1.4(442)]

The school budget review committee hereby adopts the petitions for rule making segment of the Uniform Administrative Rules which is printed in the first Volume of the Iowa Administrative Code with the following amendments:

289—2.1(17A) Petition for rule making. In lieu of the words “(designated office)”, insert “the School Budget Review Committee, Grimes State Office Building, Des Moines, Iowa 50319-0146”. In lieu of the words “(AGENCY NAME)”, the heading on the petition form should read:

“SCHOOL BUDGET REVIEW COMMITTEE”

289—2.3(17A) Inquiries. In lieu of the words “(designate official by full title and address)”, insert, “Chairperson, School Budget Review Committee, Grimes State Office Building, Des Moines, Iowa 50319-0146”.

These rules are intended to implement Iowa Code section 17A.7.

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CHAPTER 3
DECLARATORY RULINGS

[Prior to 10/17/90, see School Budget Review, 289—1.5(442)]

The school budget review committee hereby adopts the declaratory rulings segment of the Uniform Administrative Rules which is printed in the first Volume of the Iowa Administrative Code with the following amendments:

289—3.1(17A) Petition for declaratory ruling. In lieu of the words “(designate office)”, insert “the School Budget Review Committee, Grimes State Office Building, Des Moines, Iowa 50319-0146”. In lieu of the words “(AGENCY NAME)”, the heading on the petition should read:

“SCHOOL BUDGET REVIEW COMMITTEE”

289—3.3(17A) Inquiries. In lieu of the words “(designate official by full title and address)”, insert “Chairperson, School Budget Review Committee, Grimes State Office Building, Des Moines, Iowa 50319-0146”.

These rules are intended to implement Iowa Code section 17A.9.

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CHAPTER 4
AGENCY PROCEDURE FOR RULE MAKING

[Prior to 10/17/90, see School Budget Review, 289—1.6(442)]

The school budget review committee hereby adopts the agency procedure for rule making segment of the Uniform Administrative Rules which is printed in the front of Volume I of the Iowa Administrative Code with the following amendments:

289—4.3(17A) Public rule-making docket.

4.3(2) *Anticipated rule making.* In lieu of the words “(commission, board, council, director)”, insert “school budget review committee”.

289—4.4(17A) Notice of proposed rule making.

4.4(3) *Notices mailed.* In lieu of the words “(specific time period)”, insert “three years”.

289—4.5(17A) Public participation.

4.5(1) *Written comments.* In lieu of the words “(identify office and address)”, insert “the School Budget Review Committee, Grimes State Office Building, Des Moines, Iowa 50319-0146”.

289—4.6(17A) Regulatory flexibility analysis.

4.6(3) *Mailing list.* In lieu of the words “(designate office)” insert “the School Budget Review Committee, Grimes State Office Building, Des Moines, Iowa 50319-0146”.

289—4.10(17A) Exemptions from public rule-making procedures. Delete subrule 4.10(2) entitled “Categories exempt”.

289—4.11(17A) Concise statement of reasons.

4.11(1) *General.* In lieu of the words “(specify the office and address)”, insert “the School Budget Review Committee, Grimes State Office Building, Des Moines, Iowa 50319-0146”.

289—4.13(17A) Agency rule-making record.

4.13(2) *Contents.*

c. In lieu of the words “(agency head)”, insert “chairperson”.

These rules are intended to implement Iowa Code section 17A.4.

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CHAPTER 5
PUBLIC RECORDS AND
FAIR INFORMATION PRACTICES

[Prior to 10/17/90, see School Budget Review, 289—1.7(442, 22)]

The school budget review committee hereby adopts, with the following exceptions and amendments, the Uniform Administrative Rules relating to public records and fair information practices which are printed in the first Volume of the Iowa Administrative Code.

289—5.1(17A) Definitions. As used in this chapter:

“*Agency.*” In lieu of the words “(official or body issuing these rules)”, insert “school budget review committee”.

289—5.3(17A) Requests for access to records.

5.3(1) Location of record. In lieu of the words “(insert agency head)”, insert “chairperson of the committee”. In lieu of the words “(insert agency name and address)”, insert “School Budget Review Committee, Grimes State Office Building, Des Moines, Iowa 50319-0146”.

5.3(2) Office hours. In lieu of the words “(insert customary hours and, if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)”, insert “8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays, and legal holidays”.

5.3(7) Fees.

c. Supervisory fee. In lieu of the words “(specify time period)”, insert “one-half hour”. In lieu of the words “An agency wishing to deal with search fees authorized by law should do so here”, insert “The committee will give advance notice to the requester if it will be necessary to use an employee with a higher hourly wage in order to find or supervise the particular records in question, and shall indicate the amount of that higher hourly wage to the requester.”

289—5.6(17A) Procedure by which additions, dissents, or objections may be entered into certain records. In lieu of the words “(designate office)”, insert “the office of the chairperson of this committee”.

289—5.9(17A) Disclosures without the consent of the subject. Open records are routinely disclosed without the consent of the subject.

289—5.10(17A) Routine use.

5.10(1) “Routine use” means the disclosure of a record without the consent of the subject or subjects, for a purpose for which the record was collected. It includes disclosures required to be made by statute other than public records law, Iowa Code chapter 22.

5.10(2) To the extent allowed by law, the following uses are considered routine uses of all committee records:

a. Disclosure to those members of the committee who have a need for the record in the performance of their duties.

b. Information released to staff of federal and state entities for audit purposes or to determine whether the agency is operating a program lawfully.

289—5.11(17A) Availability of records. Agency records are open for public inspection and copying unless otherwise provided by rule or law.

289—5.12(17A) Rule-making records. These records are routinely available to the public and may contain information about individuals making written or oral comments on proposed rules or proposing rules or rule amendments. This information is collected pursuant to Iowa Code sections 17A.3, 17A.4 and 17A.7. These records are stored on paper and not in an automated data processing system.

289—5.13(17A) Applicability. This chapter does not require the agency to index or retrieve records which contain information about individuals by that person's name or other personal identifier.

These rules are intended to implement Iowa Code section 17A.22.

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CHAPTER 6
DUTIES AND OPERATIONAL PROCEDURES

289—6.1(257) Definitions. For the purposes of this chapter, the following definitions shall be used.

“*Actual enrollment*” is determined on the third Friday of September in each year.

“*Additional enrollment*” because of special education is determined by multiplying the weighting of each category of child under Iowa Code section 256B.9 times the number of children in each category totaled for all categories.

“*Allowable growth*” means the amount by which state cost per pupil and district cost per pupil will increase from one budget year to the next.

“*Authorized budget*” is the total dollars available as the expenditure limit for a school district for a specific fiscal year. This total is the combined district cost plus miscellaneous income actually received during the fiscal year, plus the unspent balance of the previous year.

“*Base year*” means the school year ending during the calendar year in which a budget is certified.

“*Basic enrollment for a budget year*” is a school district’s actual enrollment for the base year.

“*Basic enrollment for the base year*” is a school district’s actual enrollment for the year preceding the base year.

“*Budget adjustment*” is an adjustment to the regular program district cost of a school district for school districts in which the regular program budget for a year would be less than its regular program budget for the previous year.

“*Budget enrollment for the budget year*” shall be calculated by adding together the enrollment adjustment percents generated by the enrollment matrix determined by enrollment decline in the school district’s basic enrollment from one base year to the preceding base year for each of the five preceding base years, commencing with the percent of change between the basic enrollment for the budget year and the basic enrollment for the base year, adding the sum of the percents to one hundred and multiplying the total by the basic enrollment for the budget year as calculated under Iowa Code section 257.6.

“*Budget year*” means the school year beginning during the calendar year in which a budget is certified.

“*Certified budget*” is the (document) amount which has been published and certified as provided for in Iowa Code chapter 24 and contains the amount proposed to be expended during the budget year. If the authorized budget exceeds the certified budget, the certified budget must be amended to expend those excess funds.

“*Combined district cost per pupil*” is an amount determined by adding together the regular program district cost per pupil for a year and the special education support services cost per pupil for that year as calculated under Iowa Code section 257.10.

“*Combined state cost per pupil*” is a per pupil amount determined by adding together the regular program state cost per pupil for a year and the special education support services state cost per pupil for that year as calculated under Iowa Code section 257.9.

“*Committee*” means the school budget review committee (SBRC).

“*Expenditures*” means the total amounts paid from the general operating fund of a school district.

“*Miscellaneous income*” means the receipts deposited to the general operating fund of the school district but not including any of the following:

1. Foundation aid.
2. Revenue obtained from the foundation property tax.
3. Cash reserve levy.
4. Revenue obtained from the additional property tax under Iowa Code section 257.4.

“*Property tax adjustment*” means state aid distributed to those school districts in which the property tax revenues generated under Iowa Code chapter 257 would be higher than the revenues generated under Iowa Code chapter 442.

“*Regular program district cost*” is equal to the regular program district cost per pupil for the budget year multiplied by the budget enrollment for the budget year.

“*School district*” means a school corporation organized under Iowa Code chapter 274.

“*Special needs adjustment*” means a state grant made by the school budget review committee to school districts who have demonstrated that they have special needs for additional money.

“*State percent of growth*” means a percent of economic growth determined under Iowa Code chapter 257 which is based upon an averaging of state and federal growth indicators, and which is used in determining the allowable growth.

“*Unexpended cash balance*” is the district’s cash position at any given time. (It does NOT have a direct relationship to the “unspent balance carried forward.”)

“*Unspent balance*” is the amount of the authorized budget not expended during the budget year. (These funds are also commonly termed “unspent balance carried forward,” or “carryover dollars.”)

“*Weighted enrollment*” is the budget enrollment plus the school district’s additional enrollment because of special education calculated on December 1 of the base year plus additional pupils added due to the application of the supplementary weighting.

289—6.2(257) Hearings.

6.2(1) *Number.* The committee shall meet and hold hearings each year and shall continue in session until it has reviewed budgets of school districts and completed the other duties as found in Iowa Code section 257.31. A minimum of four hearings shall be scheduled each fiscal year and shall be held on the second Monday of September, December, March and May. Minor revisions to these regularly scheduled hearings may be made if schedule conflicts warrant. Additional hearings may also be scheduled as deemed necessary.

6.2(2) *Notification to legislators and the public.*

a. Legislators shall be notified of hearings of the SBRC that affect specific school districts in their constituencies.

b. Public notice shall be made of all hearings scheduled by the committee through the general media distribution by the department of education.

6.2(3) *Hearing procedures.* The committee shall utilize the general provisions of Robert’s Rules of Order in the conduct of its hearings.

6.2(4) *Quorum.*

a. Three members present shall constitute a quorum, and a quorum must be present to conduct a hearing at which official action is taken.

b. If only three members are present, three favorable votes are necessary to pass a motion.

289—6.3(257) Hearing procedures.

6.3(1) *Request for appearance.*

a. A school district requesting an appearance before the SBRC is required to submit a written request to the committee stating the reason for the appearance. Confirmation of each request will be sent to the school district upon receipt of the request.

b. A request must be received by the committee at least one month prior to the date of the scheduled hearing.

c. School districts with similar requests may appear and present their requests jointly.

6.3(2) *Notification to districts.*

a. School districts scheduled for hearings will be notified three weeks prior to the hearing.

b. School districts scheduled for hearings will be listed as to time and place, and notice will be sent to school officials involved not later than two weeks prior to the hearing.

c. A school district desiring to withdraw its request to appear before the SBRC should immediately inform the committee, local media, and legislators.

6.3(3) *Material for agenda.*

a. Any information requested by the committee must be provided by the school district within the timelines requested by the committee in order for the school district to be included on the agenda for a hearing. Ten copies of written material shall be submitted at least two weeks prior to the scheduled

hearing. A summary not to exceed two pages of the school district's request must be submitted to the committee.

b. It shall be the responsibility of the administrative officials and board members to present information and materials in support of the school district's request to the committee.

6.3(4) *Permission to speak during the hearing.* Any person wishing to appear before the committee shall submit a request in writing prior to the hearing date. Permission may be granted to a request made at the hearing upon a majority vote of the committee members present.

6.3(5) *Decisions by the committee.*

a. A decision shall be made no later than the end of the day of the hearing to either table, deny, or grant an adjustment where a school district has made a request.

b. If the decision is made when the school district representatives are not present, the school district shall be informed of the decision by telephone the next working day following the hearing.

c. On all decisions, the school district shall receive written confirmation of the final action taken by the committee.

6.3(6) *Routine action by the committee.* School districts do not need to be represented when action under consideration is for such items as cash reserve levies, gifted and talented, drop-out programs, special education negative balances or other situations which could be considered "class action" decisions.

289—6.4(257) General duties.

6.4(1) *Review of rules, regulations, directives and forms.* The committee may recommend the revision of any rules, regulations, directives, or forms relating to school district budgeting and accounting, confer with local school boards or their representatives and make recommendations relating to any budgeting or accounting matters, and direct the director of the department of education or the director of the department of management to make studies and investigations of school costs in any school district.

6.4(2) *Report to general assembly.* The committee shall report to each session of the general assembly any recommended changes in laws relating to school districts and shall specify the number of hearings held annually, information about the amounts of property tax levied by school districts for a cash reserve, and other information the committee deems advisable.

289—6.5(257) Budgets.

6.5(1) *Generally accepted accounting principles.* All school districts shall budget on the generally accepted accounting principles (GAAP) basis of budgeting beginning with fiscal year 2006-2007. In order to effect this change in accounting/budgeting methods, the SBRC shall direct the departments of education and management to adjust calculations from the 2004-2005 certified annual report (CAR) related to the 2004-2005 unspent balances carried forward to the 2005-2006 unspent balances in order to hold districts harmless.

a. If the net amount of actual expenditures less miscellaneous income on the GAAP basis is greater than the net amount of actual expenditures less miscellaneous income on the non-GAAP basis, the SBRC shall grant modified allowable growth in an amount equal to the excess of the net amount on the GAAP basis over the net amount on the non-GAAP basis.

b. If the net amount of actual expenditures less miscellaneous income on the GAAP basis is less than or equal to the net amount of actual expenditures less miscellaneous income on the non-GAAP basis or if the district budgeted on the GAAP basis in any previous fiscal year, the district does not qualify to receive modified allowable growth under paragraph "a."

c. Any district that determines that the amount of modified allowable growth granted for the change in accounting/budgeting methods is not adequate may make a request for additional modified allowable growth pursuant to Iowa Code section 257.31 at the May 2006 regular meeting of the SBRC.

d. Districts shall not be required to amend their 2005-2006 certified budgets for this change in accounting/budgeting methods unless the district would have had to amend its budget without regard to the change in accounting/budgeting methods.

6.5(2) *Review of proposed and certified budgets.* The committee shall review the proposed budget and certified budget of each school district and may make recommendations for modification or change.

6.5(3) *Negative unspent balances (exceeding authorized budgets).*

a. A listing of the unspent balance as well as the unexpended cash balance of each school district for each fiscal year shall be reviewed by the committee.

b. The amount of any negative unspent balance shall be automatically subtracted from the authorized budget of a given school district during the subsequent fiscal year.

c. The state board of education shall be notified of the school districts with negative unspent balances each year. The notification shall include the amount the school district exceeded its authorized budget.

d. The board members of districts with negative unspent balances shall be notified of the amount the school district exceeded its authorized budget. The school districts shall inform the SBRC at its next official hearing of the plans that are being implemented to avoid future negative unspent balances.

6.5(4) *Cash reserve levy.*

a. Annually the school budget review committee shall review the amount of property tax levied by each school district for the cash reserve authorized in Iowa Code section 298.10.

b. If in the committee's judgment, the amount of a district's cash reserve levy is unreasonably high, the committee shall instruct the director of the department of management to reduce that school district's tax levy computed under Iowa Code section 257.4 for the following budget year by the amount the cash reserve levy is deemed excessive.

c. Notwithstanding any other action approved by the committee, cash reserve levies for the budget year (reference lines 15.9/15.10 of the Aid & Levy Worksheet) shall not exceed 25 percent of the (SAR reference Item L, column 9, cell 602) operating fund expenditures for the year previous to the base year minus the (SAR reference Item J, column 1, cell 293) operating fund unspent cash balance for the year previous to the base year.

d. A reduction in a district's property tax levy for a budget year for cash reserve shall not affect the school district's authorized budget.

6.5(5) *Supplemental aid and modified allowable growth.* The committee may grant supplemental aid to school districts from any funds appropriated to the department of education for use of the school budget review committee or may establish a modified allowable growth for a school district by increasing its allowable growth for purposes outlined in Iowa Code subsection 257.31(5). Such aid shall be miscellaneous income and shall not be included in the combined district cost. These funds may be provided for, but not limited to, the following situations:

a. Unusual circumstances.

(1) Any unusual increase or decrease in enrollment.

(2) Unusual natural disasters.

(3) Unusual initial staffing problems.

(4) The closing of a nonpublic school, wholly or in part.

(5) Substantial reduction in miscellaneous income due to circumstances beyond the control of the district.

(6) Unusual necessity for additional funds to permit continuance of a course or program which provides substantial benefit to pupils.

(7) Unusual need for a new course or program which will provide substantial benefit to pupils, if the district establishes the need and the amount of necessary increased cost.

(8) Unusual need for additional funds for special education or compensatory education programs.

(9) Year-round or substantially year-round attendance programs which apply toward graduation requirements, including, but not limited to, trimester or four-quarter programs. Enrollment in such programs shall be adjusted to reflect equivalency to normal school year attendance.

(10) Unusual need to continue providing a program or other special assistance to non-English speaking pupils after the expiration of the three-year period specified in Iowa Code section 280.4.

(11) Circumstances caused by unusual demographic characteristics.

(12) Any unique problems of school districts.

b. Environmental hazard-asbestos. School districts may request modified allowable growth for removal, management, or abatement of environmental hazards due to state or federal requirements. Environmental hazards shall include but are not limited to the presence of asbestos, radon, or the presence of any other hazardous material dangerous to health and safety.

c. Unexpended cash balance. School districts desiring to use a portion of the unexpended cash balance to furnish, equip and contribute to the construction of a new building must submit a formal request to the committee.

d. Accounting procedures. The committee may approve or modify the initial base year district cost of any school district which changes accounting procedures.

e. Circumstances relating to open enrollment as provided by Iowa Code section 282.18.

289—6.6(257) Special needs adjustment program.

6.6(1) Application.

a. An application form provided by the committee must be submitted to the committee not later than December 15 of the base year in order to be eligible for consideration for any given budget year.

b. A separate application form must be submitted for each separate project for which the district is requesting funds.

6.6(2) Qualifications for general operating fund expenditures.

a. Instructional support program. A school district must have the instructional support program approved for the maximum amount.

b. Executive administration costs. A school district's executive administration expenditures must be equal to or less than 110 percent of the state average executive administration expenditures for the base year.

c. Basic criteria. A school district must meet at least one of the four criteria found in Iowa Code subsection 257.31(11) "b" in order to be eligible for consideration of funds from the special needs adjustment program.

d. Other modified allowable growth.

(1) Gifted and talented. A school district must have received maximum additional allowable growth from the committee for programs for gifted and talented children.

(2) Dropout and dropout prevention programs. A school district must have received maximum additional allowable growth from the committee for programs for dropout prevention programs.

e. Previous modified allowable growth denied/inadequate. In order to be eligible for consideration of funds from the special needs adjustment program for expenditures that would qualify for additional allowable growth under Iowa Code subsection 257.31(5), the school district must have been denied approval of such funds or been granted inadequate funds for such requests.

f. Specific needs. School districts shall list the specific reasons for which the requested funds are to be expended.

g. Line item expenditures. A detailed explanation of all proposed expenditures shall be attached to the application including all line item expenditures.

6.6(3) Qualifications for schoolhouse fund expenditures.

a. Physical plant and equipment levy. A school district must have the voter-approved physical plant and equipment levy approved for the maximum amount.

b. Executive administration costs. A school district's executive administration expenditures must be equal to or less than 110 percent of the state average executive administration expenditures for the base year.

c. Basic criteria. A school district must meet at least one of the four criteria found in Iowa Code subsection 257.3(11) "b" in order to be eligible for consideration of funds from the special needs adjustment program.

d. Other modified allowable growth.

(1) Gifted and talented. In order to be eligible for consideration of funds from the special needs adjustment program for gifted and talented projects, a school district must have received maximum additional allowable growth from the committee for programs for gifted and talented children.

(2) Dropout and dropout prevention programs. In order to be eligible for consideration of funds from the special needs adjustment program for dropout and dropout prevention programs, a school district must have received maximum additional allowable growth from the committee for programs for dropout prevention programs.

e. Previous modified allowable growth denied/inadequate. In order to be eligible for consideration of funds from the special needs adjustment program for expenditures that would qualify for additional allowable growth under Iowa Code subsection 257.31(5), the school district must have been denied approval of such funds or been granted inadequate funds for such requests.

f. Specific needs. School districts shall list the specific reasons for which the requested funds are to be expended.

g. Line item expenditures. A detailed explanation of all proposed expenditures shall be attached to the application including line item costs.

289—6.7(257) Sharing. The committee may recommend that two or more school districts jointly employ and share the services of any school personnel, or acquire and share the use of classrooms, laboratories, equipment, and facilities as specified in Iowa Code section 280.15.

289—6.8 Transportation assistance aid. Reserved.

289—6.9 Special education. Reserved.

289—6.10 Area education budget review. Reserved.

These rules are intended to implement Iowa Code section 257.30.

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CHAPTER 7
ON-TIME FUNDING FOR INCREASED ENROLLMENT

289—7.1(257) Definitions. For the purpose of this chapter, the following definition applies.

“Increased enrollment” means an actual enrollment for the budget year which is greater than the budget enrollment for the budget year. Enrollment shall be determined pursuant to Iowa Code section 257.6.

289—7.2(257) On-time funding eligibility.

7.2(1) Eligibility. A school district is eligible to request on-time funding if it experiences increased enrollment and it incurs additional costs due to the increased enrollment in one or both of the following categories.

a. The school district adds an additional teacher or other instructional staff due to the increased enrollment or incurs additional expenditures for instructional supplies.

b. The school district incurs additional expenditures other than instructional staff and instructional supplies. This would include, but not be limited to, expenditures for transportation and equipment.

7.2(2) Expenditure definitions. Expenditure objects and functions shall be defined according to Uniform Financial Accounting for Iowa LEAs and AEAs.

7.2(3) Special education expenditures excluded. Expenditures shall not include instructional staff, instructional supplies, or other expenditures for students eligible for the special education weighting plan provided in Iowa Code section 256B.9.

7.2(4) Average costs. Expenditures for instructional staff and instructional supplies shall be based on average costs. Average costs for instructional staff shall be determined separately for teachers, teacher aides, and other instructional staff. The average shall be calculated as the sum of expenditure objects for salaries, employee benefits, travel, in-service, and professional dues divided by the total staff full-time equivalent in each category. The average costs shall be multiplied by the staff full-time equivalent increase in each staff classification to determine increased expenditures for instructional staff. The average instructional supplies costs shall be determined separately for elementary, middle or junior high, and high school. The average shall be calculated as the sum of the expenditure objects for general supplies, books and periodicals, software and magnetic media, and audio-visual media within the expenditure function of instruction divided by the total student full-time equivalent at each level. The average cost shall be multiplied by the student full-time equivalent increase at each level to determine increased expenditures for instructional supplies. Actual expenditures for the base year shall be used in the calculation. The school budget review committee will provide a form for the purpose of calculating these average costs.

7.2(5) Additional expenditures. If the school district has expenditures due to increased enrollment other than for instructional staff and instructional supplies, the school district shall provide a listing of the additional expenditures and a statement showing the relationship between the additional expenditures and the increased enrollment.

289—7.3(257) Maximum on-time funding for increased enrollment.

7.3(1) Maximum requests. The total amount requested for on-time funding shall not be greater than the increased enrollment multiplied by the state cost per pupil for the budget year.

7.3(2) Proration of appropriation. If the total amount of the requests for on-time funding approved by the SBRC exceeds the appropriation to the department of education to be paid to school districts as on-time funding for increased enrollment, the appropriation shall be prorated such that each school district approved for on-time funding shall receive an amount of on-time funding equal to the percentage that the on-time funding to be provided to the school district bears to the total amount of on-time funding to be provided to all school districts receiving SBRC approval.

7.3(3) Reduction for budget adjustment. The amount of funding calculated and approved by the SBRC pursuant to this chapter shall be reduced by the amount of budget adjustment which the school district is receiving for the budget year.

289—7.4(257) Due date. An application for on-time funding for increased enrollment must be on the forms provided by the SBRC and is due November 1. The application form shall include an assurance statement certifying the accuracy of the information submitted. A copy of the resolution of the board of directors of the school district requesting the on-time funding must be included with the application.

289—7.5(257) Waiver. Upon a majority vote of the members of the school budget review committee at a regular or special meeting, the committee may waive rule 289—7.2(257) or any portion of that rule. A waiver may be requested by a school district if the school district did not have increased expenditures. The school district must provide evidence regarding why it was not able to increase expenditures associated with enrollment increases but would have increased expenditures had additional miscellaneous income been available and how additional funds will be expended if they become available. The school district must include the waiver request and the evidence required by this rule with the application form submitted pursuant to rule 289—7.4(257). It is the intent of the committee to waive requirements only when it is determined that they would result in unequal treatment of school districts or cause an undue hardship to the requesting district and the waiver clearly is in the public interest.

These rules are intended to implement Iowa Code chapter 257 as amended by 1999 Iowa Acts, House File 147, section 2.

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CHAPTER 8
WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES

289—8.1(17A,ExecOrd11) Definitions. For purposes of this chapter:

“*Board*” means the state board of education.

“*Committee*” means the school budget review committee.

“*Department*” means the department of education.

“*Director*” means the director of the department of education.

“*Person*” means an individual, school corporation, government or governmental subdivision or agency, nonpublic school, partnership or association, or any legal entity.

“*Waiver or variance*” means action by the director which suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. For simplicity, the term “waiver” shall include both a “waiver” and a “variance.”

289—8.2(17A,ExecOrd11) Scope. This chapter outlines generally applicable standards and a uniform process for the granting of individual waivers from rules in situations where no other more specifically applicable law provides for waivers. To the extent another more specific provision of law governs the issuance of a waiver from a particular rule, the more specific provision shall supersede this chapter with respect to any waiver from that rule.

289—8.3(17A,ExecOrd11) Applicability. A waiver from a rule may be granted only if the department has jurisdiction over the rule and the requested waiver is consistent with applicable statutes, constitutional provisions, or other provisions of law. Statutory duties or requirements created by statute may not be waived.

289—8.4(17A,ExecOrd11) Criteria for waiver. In response to a petition completed pursuant to rule 289—4.6(17A,ExecOrd11), the director may, in the director’s sole discretion, issue an order waiving in whole or in part the requirements of a rule if the director finds, based on clear and convincing evidence, all of the following:

1. The application of the rule to the person at issue would result in an undue hardship on the person for whom the waiver is requested;
2. The waiver from the requirement of the rule in the specific case would not prejudice the substantial legal rights of any person;
3. The provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or another provision of law;
4. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested; and
5. The waiver from the requirements of the rule in the specific case would not have a negative impact on the student achievement of any person affected by the waiver.

289—8.5(17A,ExecOrd11) Filing of petition. All petitions for waiver must be submitted in writing to the Director, Department of Education, Grimes State Office Building, Des Moines, Iowa 50319-0146. If the petition relates to a pending contested case, the petition shall be filed in the contested case proceeding, using the caption of the contested case.

289—8.6(17A,ExecOrd11) Content of petition. A petition for waiver shall include the following information where applicable and known to the requester:

1. The name, address, and telephone number of the person for whom a waiver is being requested, and the case number of any related contested case.
2. A description and citation of the specific rule from which a waiver is requested.
3. The specific waiver or variance requested, including the precise scope and duration.

4. The relevant facts that the petitioner believes would justify a waiver under each of the five criteria described in rule 289—4.4(17A,ExecOrd11). This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition and a statement of reasons that the petitioner believes will justify a waiver.

5. A history of any prior contacts between the board, the department and the petitioner relating to the regulated activity, license, or grant affected by the proposed waiver, including a description of each affected item held by the requester, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity, license, or grant within the last five years.

6. A detailed statement of the impact on student achievement for any person affected by the granting of a waiver.

7. Any information known to the requester regarding the board's or department's treatment of similar cases.

8. The name, address, and telephone number of any person or entity that would be adversely affected by the granting of a petition.

9. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

10. Signed releases of information authorizing persons with knowledge regarding the request to furnish the department with information relevant to the waiver.

289—8.7(17A,ExecOrd11) Additional information. Prior to issuing an order granting or denying a waiver, the department may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the department may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the department.

289—8.8(17A,ExecOrd11) Notice. The department shall acknowledge a petition upon receipt. The department shall ensure that notice of the pendency of the petition and a concise summary of its contents have been provided to all persons to whom notice is required by any provision of law within 30 days of the receipt of the petition. In addition, the department may give notice to other persons. To accomplish this notice provision, the department may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law and provide a written statement to the department attesting that notice has been provided.

289—8.9(17A,ExecOrd11) Hearing procedures. The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply in three situations: (1) to any petition for a waiver filed within a contested case; (2) when provided by rule or order; or (3) when required to do so by statute.

289—8.10(17A,ExecOrd11) Ruling. An order granting or denying a waiver shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and the reasons upon which the action is based, and a description of the precise scope and operative period of the waiver if one is issued.

8.10(1) Discretion. The final decision on whether the circumstances justify the granting of a waiver shall be made at the sole discretion of the director, upon consideration of all relevant factors. Each petition for a waiver shall be evaluated by the director based on the unique, individual circumstances set out in the petition.

8.10(2) Burden of persuasion. The burden of persuasion rests with the petitioner to demonstrate by clear and convincing evidence that the director should exercise the director's discretion to grant a waiver from a rule.

8.10(3) Narrowly tailored exception. A waiver, if granted, shall provide the narrowest exception possible to the provisions of a rule.

8.10(4) *Administrative deadlines.* When the rule from which a waiver is sought establishes administrative deadlines, the director shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

8.10(5) *Conditions.* The director may place any condition on a waiver that the director finds desirable to protect the public health, safety, and welfare.

8.10(6) *Time period of waiver.* A waiver shall not be permanent unless the petitioner can show that a temporary waiver would be impracticable. If a temporary waiver is granted, there is no automatic right to renewal. At the sole discretion of the director, a waiver may be renewed if the director finds that grounds for a waiver continue to exist.

8.10(7) *Time for ruling.* The director shall grant or deny a petition for a waiver as soon as practicable but, in any event, shall do so within 120 days of its receipt, unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the director shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

8.10(8) *When deemed denied.* Failure of the director to grant or deny a petition within the required time period shall be deemed a denial of that petition by the director. However, the director shall remain responsible for issuing an order denying a waiver.

8.10(9) *Service of order.* Within seven days of its issuance, any order issued under this uniform rule shall be transmitted to the petitioner or the person to whom the order pertains, and to any other person entitled to such notice by any provision of law.

289—8.11(17A,ExecOrd11) Public availability. All orders granting a waiver petition shall be indexed, filed and available for public inspection as provided in Iowa Code section 17A.3. Petitions for a waiver and orders granting or denying waiver petitions are public records under Iowa Code chapter 22. The director may accordingly redact confidential information from petitions or orders prior to public inspection.

289—8.12(17A,ExecOrd11) Summary reports. Semi-annually, the department shall prepare a summary report identifying the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by those rules, and a general summary of the reasons justifying the committee's actions on waiver requests. If practicable, the report shall detail the extent to which the granting of a waiver has affected the general applicability of the rule itself. Copies of the report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.

289—8.13(17A,ExecOrd11) Cancellation. A waiver issued pursuant to this chapter may be withdrawn, canceled or modified if, after appropriate notice and hearing, the director issues an order finding any of the following:

1. The petitioner or the person who was the subject of the waiver order withheld or misrepresented material facts relevant to the propriety or desirability of the waiver; or
2. The alternative means for ensuring that the public health, safety and welfare will be adequately protected after issuance of the waiver order have been demonstrated to be insufficient; or
3. The subject of the waiver order has failed to comply with all conditions contained in the order.

289—8.14(17A,ExecOrd11) Violations. Violation of conditions in the waiver approval is the equivalent of violation of the particular rule for which the waiver is granted. As a result, the recipient of a waiver under this chapter who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the rule at issue.

289—8.15(17A,ExecOrd11) Defense. After the director issues an order granting a waiver, the order is a defense within its terms and the specific facts indicated therein for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

289—8.16(17A,ExecOrd11) Judicial review. Judicial review of the director's decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A.

These rules are intended to implement Iowa Code section 17A.9A.

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