



Administrative Rules Review Committee

STATEHOUSE * ROOM 116 * DES MOINES, IOWA 50319 * (515) 281-3084/3355/4800
FAX (515) 281-4424 * E-MAIL jroyce@legis.state.ia.us; mduster@legis.state.ia.us

THE RULES DIGEST

March, 2008

Scheduled for committee review

Friday, March 7, 2008 in Senate Committee Room #116

Reference

XXX IAB No. 17 (02/13/08)

XXX IAB No. 18 (02/27/08)

HIGHLIGHTS IN THIS ISSUE:

OPEN ENROLLMENT: DIVERSITY PLANS, Education Department2
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ETHICS AND CAMPAIGN DISCLOSURE BOARD

8:20

Surcharge on penalties, IAB Vol. XXX No. 17, ARC 6592B, NOTICE.

Code §68B.32D empowers the board to impose a civil penalty of not more than two thousand dollars for each violation of the campaign finance laws; these penalties are paid into the general fund. The problem is that assessing penalties has an actual cost to the board in postage, printing, handing and clerical support.

The board proposes to recoup a portion of these costs by retaining two dollars of each penalty as a repayment receipt.

EDUCATION DEPARTMENT

8:50

Administrator quality program, IAB Vol. XXX No. 18, ARC 6624B, ADOPTED.

2007 Iowa Acts, Senate File 277 contains a variety of revisions to the student achievement and teacher quality program. The Acts calls for an administrator quality program and requires evaluation standards for administrators and ongoing professional development. This new program provides mentoring and opportunities for professional development along with an evaluation

process based on the newly developed Iowa standards for school administrators. At the conclusion of a beginning administrator's first year of employment, the beginning administrator shall be comprehensively evaluated to determine if the administrator meets expectations to move to a standard administrator license. The proposed rules set out a series of criteria to evaluate the administrator. Generally, The criteria look to the vision of the administrator as evidenced by the educational program and student achievement, support for a culture of learning, management skills, family and community efforts, and ethics.

Senate File 277 also calls for each district to establish a teacher quality committee, consisting of administrators and teachers. This committee will monitor the implementation of the program; determine the use and distribution of the professional development; monitor the professional development to ensure that the professional development meets professional development plans; ensure that agreements determine the compensation for teachers on the committee for the extra work; and make recommendations concerning the use of market factor incentives for classroom teachers.

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Open enrollment, IAB Vol. XXX No. 18, ARC 6625B, ADOPTED.

This filing implements a decision of the United States Supreme Court, which held student attendance assignments may not be based solely or primarily on race; see: *Parents Involved in Community Schools v. Seattle School District*, 05-908, 551 U.S. ___ (2007). The proposed rules amend the definition of "minority student" and establish definitions for "diversity plan", "voluntary diversity plan", and "eligible district". Rather than defining "minority student" solely in terms of race, the amendments allow eligible districts to define the term for themselves as long as race is not the sole or the determinative factor.

Under these rules, eligible school districts will still be able to deny open enrollment requests if the enrollment or release of the student will negatively impact the district's voluntary diversity plan. The proposed rules also declare all voluntary desegregation plans adopted prior to June 28, 2007 to be invalid. Districts that desire to adopt a voluntary diversity plan for open enrollment must do so by March 1, 2008.

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Charter schools, IAB Vol. XXX No. 18, ARC 6623B, NOTICE.

For the first time in its five year history, the program for charter schools is being updated. These public schools are established by creating a new school within an existing public school or converting an existing public school to charter status; they are largely exempt from statutes and rules regulating school districts. Charter schools operate under a four year, renewable contract with the local district.

This proposal reflects a statutory change that authorizes an increase in the number of charter schools from 10 to 20. An additional criteria is added to the approval process for charter schools: a majority of family units of the proposed charter school support the approval of the application.

The proposal contains three new rules. The first establishes an ongoing review process by the department. The second rule establishes a simple renewal process, requiring the school district to hold a public hearing. Any modification of the

original terms of the charter requires a new application to the department.

The third rule establishes a revocation process. A charter can be revoked either by the board or the department, for three reasons:

- The charter school failed to meet the requirements for the contract for the operation of the charter school.
- The charter school failed to comply with Iowa law.
- The charter school failed to meet generally accepted accounting principles.

CREDIT UNION DIVISION

9:00

Debt cancellation products, IAB Vol. XXX No. 17, ARC 6602B, ADOPTED.

2007 Iowa Acts, Senate File 557, codified in Iowa Code Supplement section 533.315(9)"b", authorizes the division to offer debt cancellation products. A debt cancellation product is an agreement between a financial institution and a borrower modifying loan terms under which the institution agrees to suspend or cancel all or part of the borrower's obligation to repay a loan. A debt cancellation product may involve an optional member paid fee which provides protection for such unforeseen events as death, disability, involuntary unemployment, total loss of a vehicle, and other contingencies. To the consumer debt cancellation may appear similar to credit life or disability insurance, but debt cancellation is not an insurance product and it is regulated by the credit union division as part of the loan process; the authority for these products is codified within the general loan provisions.

The purchase of a debt cancellation product must be voluntary, it cannot be a condition of the loan. The credit union must obtain from the borrower a written election to purchase the product and written acknowledgment of the disclosures required in by the rules. This includes:

- Disclosure that the product is optional;
- An explanation of debt suspension agreement;
- The amount of fee;
- Lump sum or installment payment of fee; .
- Policy of refund of the fee;
- Cancellation rights;
- Eligibility requirements.

A verbal, "short term" disclosure is required at the time the credit union first offers the debt cancellation product to the borrower. The credit

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union must make a "long-form disclosure" in writing before the borrower completes the purchase of the contract or agreement. The borrower must provide a written affirmative election to purchase the product and written acknowledgment of receipt of the disclosures.

PUBLIC SAFETY DEPARTMENT

9:20

On-site surveillance, IAB Vol. XXX, No. 17, ARC 6591B, ADOPTED.

Iowa law requires that gambling activities on excursion gambling boats be continuously recorded and department rules implementing that requirement mandate the use of a closed circuit surveillance system.

The department now completes action on a number of revisions: by 2011 all facilities must have digital recording systems and a closed network with limited access located on the same premises as the casino or on adjacent property. All equipment used to monitor or record views obtained by a surveillance system must also be located in a room on the same premises as the casino or adjacent property, and be used exclusively for casino surveillance security purposes. Policies must be in place relating to employee access levels and the transmission or release of live or recorded images, video, or audio.

These proposal are controversial, with representatives of the gaming industry contend that the degree of control that the department exercises over the surveillance systems is neither necessary or effective. The representatives question whether the department properly has regulatory authority over the entire casino structure, contending that the authority applies to the actual gaming areas.

Gaming industry representatives also oppose the degree of control the department will exercise over the surveillance system.

ENVIRONMENTAL PROTECTION COMMISSION

10:00.

Corrective action requirements: underground storage tanks, IAB Vol. XXX No. 17, ARC 6596B, NOTICE.

Chapter 135 of the EPC rules set out the procedures relating to detection, prevention and correction of releases from underground storage tanks. When a site has been contaminated the EPC

utilizes "risk-based corrective action" to evaluate the risks, using a certified groundwater professional, posed by contamination using a progressively more site-specific, three-tiered approach to site assessment and analysis. A Tier I assessment identifies sites which do not pose an unreasonable risk to public health and safety or the environment based on limited data. Tier II and Tier III assessments require more sophisticated data collection and analysis. The process and requirements for each level of assessment are set out in great detail.

This proposal revises the computer software that is used to analyze the data from a Tier II assessment. It also imposes new requirements relating to testing near a "sensitive area", which is essentially an area near a public water supply. In situations where a Tier 1 assessment is required and the leaking tank site is located within a sensitive area for a public water supply well, a Tier 2 site cleanup report will be required and additional testing and analysis may be required.

MEDICAL BOARD

No Rep.

Standards of practice: pain medication, IAB Vol. XXX No. 17, ARC 6604B, NOTICE.

In a major rulemaking, the board proposes new standards of practice relating to the assessment and treatment of acute pain. Similar rules are currently in place, but the proposal provides far more detail and provides support and encouragement for more aggressive pain management. The rules encourages the use of acupuncture, physical therapy and massage in the treatment of acute and chronic pain deal extensively with the administration of controlled substances to provide relief from acute or chronic pain. The rules specifically establish in principle that providing pain management for persons suffering from chronic pain or a substance abuse problem is difficult, and that the board looks to a pattern of improper pain management or a single occurrence of willful or gross overtreatment or undertreatment of pain in determining proper practice..

The proposal also establishes that inappropriate of pain is a departure from the acceptable standard of practice in Iowa. Inappropriate pain management may include nontreatment,

undertreatment, overtreatment, and the continued use of ineffective treatments. Inappropriate pain management may be grounds for disciplinary action.

TREASURER

No Rep.

Iowa Educational Savings Plan, IAB Vol. XXX, No. 18, ARC 6613B, ADOPTED.

This filing was initially reviewed by the Committee in January; the program itself in 1998 as a trust investment plan located within the Treasurer's office, it allows Iowans to pool savings for future college expenses. This is the first update in five years. The program was created in Code Chapter 12D. It is based on section 529 of the Internal Revenue Code. These so-called 529 plans are also known as "qualified tuition plans". All fifty states have some version of this program. This is not a pre-paid tuition program, which generally allows college savers to purchase units or credits at participating colleges and universities for future tuition. This savings programs does not establish a lock on college costs.

Each participant enters into an agreement to agree to invest a specific amount of money in the trust for a specific period of time for the benefit of a named beneficiary. The participant is not be required to make an annual contribution on behalf of a beneficiary. That contribution may be deducted for Iowa income tax purposes the maximum contribution is adjusted each year by the Treasurer, based on the inflation rate The Treasurer sets an account balance limit in compliance with federal law.

Payments from the plan may be made either to the beneficiary or an institution of high education. Non-qualifying uses of the fund are subject to federal and state taxation. Qualifying uses can include: tuition, fees, books, supplies, equipment and reasonable room and board expenses.