



# Iowa General Assembly

## Administrative Rules Review Committee Briefings

Legislative Services Agency – Legal Services Division

### ADMINISTRATIVE RULES REVIEW COMMITTEE BRIEFINGS

**Meeting Dates:** May 8, 2018

**Purpose.** *This compilation of briefings on legislative interim committee meetings and other meetings and topics of interest to the Iowa General Assembly, written by the Legal Services Division staff of the nonpartisan Legislative Services Agency, describes committee activities or topics. The briefings were originally distributed in the Iowa Legislative Interim Calendar and Briefing. Official minutes, reports, and other detailed information concerning the committee or topic addressed by a briefing can be obtained from the committee's Internet page listed above, from the Iowa General Assembly's Internet page at <https://www.legis.iowa.gov/>, or from the agency connected with the meeting or topic described.*

#### ADMINISTRATIVE RULES REVIEW COMMITTEE

May 8, 2018

**Chairperson:** Senator Mark Chelgren

**Vice Chairperson:** Representative Dawn Pettengill

**EMERGENCY RULE FILING REVIEWS.** Iowa Code section 17A.4(3) provides that an agency can adopt a rule without notice only with specific statutory authority or with prior approval by the Administrative Rules Review Committee. Under this procedure, the committee reviews requests by agencies to adopt rules filed without notice at its monthly meeting or at special meetings if necessary. The committee will approve such filings if the committee finds good cause that notice and public participation would be unnecessary, impracticable, or contrary to the public interest.

The committee considered one filing:

- College Student Aid Commission — Meetings of the Commission — Special Meetings, Affirmative Votes. EMERGENCY FILING APPROVED BY COMMITTEE.

#### OFFICE OF THE CHIEF INFORMATION OFFICER, *Broadband Grants Program, 4/11/18 IAB, ARC 3728C, NOTICE.*

**Background.** This rulemaking relates to the Broadband Grants Program.

**Commentary.** Mr. Matt Behrens, Office of the Chief Information Officer, reviewed the rulemaking. Committee members noted that subrule 22.4(5) states: “[t]hese rules generally limit the use of grant funds to and for broadband infrastructure installed within targeted service areas”. Committee members inquired as to whether Mr. Behrens knew that the Code limits the use of grant funds. Committee members followed up by stating that these rules were an improper attempt to modify the impact of the legislation. Committee members expressed disapproval of notwithstanding language within that same subrule that would allow funds to be used for projects outside of targeted service areas. Due to similar concerns, committee members encouraged the Office of the Chief Information Officer to revisit subrule 22.6(3).

On behalf of the Iowa Communication Alliance (Alliance), Ms. Caitlin Jarzen provided a written document that conveyed the Alliance's concerns. Additionally, Ms. Jarzen orally expressed the Alliance's concerns regarding subrule 22.3, which states what a Notice of Funding Availability (NOFA) may contain. The Alliance's concern is that as the rule is currently written, there are no requirements that a NOFA include any particular information.

**Action Taken.** No action taken.

#### DEPARTMENT OF EDUCATION, *High-Quality Standards for Computer Science, 4/25/18 IAB, ARC 3765C, ADOPTED.*

**Background.** This rulemaking establishes high-quality standards for computer science instruction for school districts and accredited nonpublic schools receiving funds from the Computer Science Professional Development Incentive Fund established by Iowa Code section 284.6A.

**Commentary.** Ms. Nicole Proesch and Ms. Erika Cook spoke on behalf of the department. In response to several questions from committee members regarding teaching standards and course content for computer science, they explained that the

Board of Educational Examiners is in the process of establishing an endorsement for computer science, but the process is not yet complete. Ms. Proesch and Ms. Cook agreed to seek additional information from the board about its progress on the endorsement. They also explained that the course content of any computer science course will ultimately be determined by local schools, and requirements established in this rulemaking are only applicable to schools seeking grants from the Computer Science Professional Development Incentive Fund.

In response to additional questions from committee members, Ms. Proesch and Ms. Cook explained that the department is planning to pursue federal grants in this area, but could not share more information on that at this time. They explained that the department has not established partnerships with major technology companies relating to these computer standards, although schools are being encouraged to do so. Ms. Proesch and Ms. Cook also explained that the department has a standards review team, which includes private sector members, that seeks to make the department's computer standards relevant as technology advances over time.

Committee members urged the department to take a lead role in implementing computer science standards in Iowa.

**Action.** No action taken.

**DEPARTMENT OF EDUCATION, *Special Education — Regular High School Diploma, Assessments, 4/25/18 IAB, ARC 3766C, ADOPTED.***

**Background.** This rulemaking modifies the department's definition of "regular high school diploma" to specify that a regular high school diploma must be fully aligned to state-required standards. The rulemaking also requires that all students with disabilities participate in statewide and districtwide assessments and provides that children with significant intellectual disabilities shall take alternate assessments aligned to alternate academic achievement standards. Both of the changes are made to conform with amendments to the federal Individuals with Disabilities Education Act made by the federal Every Student Succeeds Act.

**Commentary.** Mr. Thomas Mayes, Department of Education, reviewed the rulemaking and summarized the public comments the department had received. He acknowledged that this rulemaking will have a more significant impact on special education students. He explained that commenters generally recognized that this rulemaking implements federal requirements and the department has limited discretion to modify such requirements. He explained that most commenters sought assistance from the department in implementing these requirements and that the department is working with stakeholders to develop tools to allow each student to graduate based on their capabilities and local graduation standards. He also explained that decisions regarding whether a particular student graduates are always made by schools and not by the department and that decisions regarding graduation made in 2018 would not be reversed because of this rulemaking.

Committee members asked if there would be consequences for failing to follow the new federal standards, and Mr. Mayes explained that the federal government, under both the previous and current administrations, has been actively enforcing state compliance with the standards. Committee members asked what limitations there are on local graduation requirements, and Mr. Mayes explained that there are few limitations, mostly consisting of state requirements that students take certain numbers of years of courses in certain subjects in order to graduate.

**Action.** No action taken.

**COLLEGE STUDENT AID COMMISSION, *Meetings of the Commission — Special Meetings, Affirmative Votes, 3/28/18 IAB, ARC 3699C, ADOPTED.***

**Background.** This rulemaking limits the total number of in-person meetings of the commission that can be held annually to eight in-person meetings with an option to hold additional meetings. The rulemaking also provides that a commission member who is present while the commission takes action at a meeting will be presumed to have assented to the action, regardless of whether the member cast a vote, unless the member affirmatively dissents or abstains before the commission meeting adjourns. This rulemaking was initially reviewed at the April 6, 2018, ARRC meeting and was subject to a 70-day delay. Members expressed concern that the rulemaking could potentially allow the commission to hold an unlimited number of meetings each year and also questioned whether it is appropriate to presume a commission member assents in a commission vote if the member does not affirmatively indicate that the member assents. Additional review was scheduled for the May 8 ARRC meeting.

**Commentary.** Mr. Todd Brown, College Student Aid Commission, stated that the commission is open to feedback from the committee on two different proposed revisions to the language of ARC 3699C distributed to the committee electronically before the meeting. The revisions were drafted to address the concerns committee members expressed at the April 6, 2018, ARRC meeting.

Committee members expressed support for the first proposed revision, which sets a limit of eight in-person meetings annually with no exceptions and strikes the language relating to presumed assent to commission actions.

Committee counsel Mr. Jack Ewing explained procedural options available to the committee to ensure that the first proposed revision becomes effective before ARC 3699C becomes effective.

**Action.** A motion to authorize emergency rulemaking to implement the language of the first revision proposed by the commission passed unanimously on a voice vote.

**NATURAL RESOURCE COMMISSION, *Deer Hunting by Residents and Nonresidents, 4/11/18 IAB, ARC 3731C, NOTICE.***

**Background.** This rulemaking relates to deer hunting by residents and nonresidents and includes season dates, bag limits, shooting hours, areas open to hunting, licensing procedures, means and methods of take, transportation, and reporting requirements. Among other matters, this rulemaking, for purposes of deer hunting, imposes a limit of six cartridges for shotguns, straight wall cartridge rifles, and handguns. The limit of six cartridges limits the amount of rounds of ammunition that may be loaded at one time. Additionally, this rulemaking removes handguns as a method of take from the late muzzleloader season.

**Commentary.** Mr. Tyler Harms, Department of Natural Resources, reviewed the rulemaking. Mr. Harms stated that during the public comment period, many hunters asserted that the six cartridge limit is unreasonable. However, Mr. Harms stated that the hunters misunderstood the limit to be a limit on the type of firearm, allowing only firearms that hold six or fewer cartridges. Mr. Harms stated that the rule is intended to limit the amount of rounds of ammunition that may be loaded at one time. Nevertheless, Mr. Harms stated he is going to propose that the Natural Resource Commission strike this portion of the rule.

Committee members questioned why the number six (cartridges) was chosen and whether that was dictated by the General Assembly or if it was the prerogative of the department. Mr. Harms stated that the department has the authority to create rules regarding method of take. Mr. Harms stated that the department created this rule for hunter safety, to reduce the chance of unnecessarily wounding deer, and to accommodate individuals wanting to hunt with a revolver-style pistol. Committee members questioned how the cartridge limit would change hunter behavior. Mr. Harms responded by indicating that the rule change to limit rounds is consistent with other Midwestern states. Committee members questioned whether it is important to do what other Midwestern states do. Committee members expressed concern with the department's decision to identify allowable firearms rather than define prohibited firearms. Mr. Harms stated that the department would not be defining which handguns are allowed, but will be adding some language as to what defines an allowable handgun.

Committee members noted that the rulemaking contains references to what appear to be specific brand names. Committee members suggested that the department should regulate by the type of firearm, not the brand.

**Action Taken.** No action taken.

**PUBLIC HEALTH DEPARTMENT, *Local Public Health Services — Funding, 4/11/18 IAB, ARC 3747C, ADOPTED.***

**Background.** This rulemaking relates to local public health services and essential public health service funds.

**Commentary.** Ms. Susan Dixon, Department of Public Health, reviewed the rulemaking. Committee members expressed that if subrule 80.3(5) went into effect, an individual would no longer meet the criteria for a job an individual currently holds or is currently being trained for, noting that the subrule does not include a grandfather clause. Committee members questioned whether it is appropriate to define "essential public health services" of the Department of Public Health to include diagnosing and investigating health problems and assuring a competent public health and personal health care workforce. Committee members also raised concerns with the rulemaking relating to the language in the stated purpose of essential public health service funds.

**Action Taken.** A motion for a session delay on ARC 3747C passed unanimously on a voice vote.

**Next Meeting.** The next committee meeting will be held in Room 116, Statehouse, on Tuesday, June 12, 2018, beginning at 9:00 a.m.

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Internet Site: <https://www.legis.iowa.gov/committees/committee?endYear=2018&groupID=705>