# EDUCATION DEPARTMENT[281]

## Notice of Intended Action

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 15, "Use of Telecommunications for Instruction by Schools," Iowa Administrative Code.

This chapter originally solely governed telecommunications in compliance with Iowa Code section 256.7, subsections 7 through 9. The original rules are preserved in Division I herein. Pursuant to 2012 Iowa Acts, Senate File 2284, sections 13 through 17, Divisions II and III are added to these rules. Division II provides guidance and direction for the use of online learning as an instructional tool for students enrolled in kindergarten through grade 12. Division III provides guidance for students and school districts regarding enrollment of students in one or more courses offered by Iowa Learning Online.

An agency-wide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before September 11, 2012, at 4:30 p.m. Comments on the proposed amendments should be directed to Mike Cormack, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515) 281-3399; E-mail mike.cormack@iowa.gov; or fax (515) 242-5988.

A public hearing will be held on September 11, 2012, from 9 to 10 a.m. in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special

requirements, such as those related to hearing or mobility impairments, should advise the Department of Education of their specific needs by calling (515)281-5295.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement 2012 Iowa Acts, Senate File 2284, sections 13 to 17.

The following amendment is proposed.

Rescind 281—Chapter 15 and replace with new 281—Chapter 15.

CHAPTER 15

USE OF ONLINE LEARNING AND TELECOMMUNICATIONS FOR INSTRUCTION BY SCHOOLS

**281—15.1(256) Purpose.** It is the purpose of this chapter to give guidance and direction for the use of online learning or the use of telecommunications as an instructional tool for students enrolled in kindergarten through grade 12. It is a further purpose of this chapter to provide guidance for students and school districts regarding enrollment of students in one or more courses offered by Iowa Learning Online.

**281—15.2(256) Definitions**.

*"Appropriately licensed and endorsed"* means possession of current and valid licensure by the Iowa board of educational examiners to practice at a prescribed educational level in a specified content area.

*"Class size"* refers to the total group taught during a time period by a teacher or teaching team with students at one or more sites.

*"Delivered primarily over the Internet"* means more than fifty percent of the course

content and/or instruction is delivered using the global computer network of the World Wide Web or Internet.

*"Department"* means the department of education.

*"Exclusive instruction"* means without the use of any other form of instructional delivery.

*"Iowa Learning Online"* or *"ILO"* means the department's digital learning initiative to provide online courses to students enrolled or dually enrolled in participating school districts and accredited nonpublic schools. ILO is more specifically explained in Division III herein.

*"Online learning"* and *"online coursework"* mean educational instruction and content delivered primarily over the Internet. These terms do not include print-based correspondence curricula, broadcast television or radio, videocassettes, or stand-alone educational software programs that lack a significant Internet-based instructional component.

"*Participating school district or accredited nonpublic school"* means a school district or accredited nonpublic school who has registered a student in an ILO course and has agreed to provide the student with access, within the school day, to a computer with Internet connectivity through a direct connection; as well as access to a telephone or an ICN classroom, and transportation to periodic laboratory components, if needed or required. The district has also agreed to provide a staff member to serve as a site coordinator and contact for the ILO teacher, monitor progress, and serve as the student's advocate by providing academic coaching and technical support. Further, the district has agreed to award a grade and credit on the student's district-level transcript, based on the

end-of-course evaluation by the ILO teacher.

*"Telecommunications"* means narrowcast communications through systems that are directed toward a narrowly defined audience and includes interactive live communications. Telecommunications does not include online learning.

DIVISION I

USE OF TELECOMMUNICATIONS FOR INSTRUCTION BY SCHOOLS

**281—15.3(256) Interactivity.** Courses delivered primarily via telecommunications shall employ live interactive systems which allow at a minimum one-way video and two-way audio communication. An annual waiver may be granted by the department for a telecommunications system that does not include audio but has alternative contemporaneous, interactive communication ability and is consistent with sound instructional practice.

**281—15.4(256) Course eligibility.** Telecommunications may be employed as a means to deliver any course, including a course required for accreditation by the department, provided it is not the exclusive means of instructional delivery.

**281—15.5(256) Teacher preparation and accessibility.** A teacher appropriately licensed and endorsed for the educational level and content area being taught shall be present and responsible for the instructional program at the receiving site if a presenter of material transmitted via telecommunications is not an appropriately licensed and endorsed teacher for the educational level and content area. If a presenter of material transmitted via telecommunications is an appropriately licensed and endorsed teacher for the educational level and content area, a supervising teacher, or aide to whom a supervising teacher is readily available for consultation, shall supervise and monitor the

curriculum and students, and be readily accessible to the students. Prior to being assigned initially to deliver instruction via telecommunications, a teacher shall receive training regarding effective practices which enhance learning by telecommunications.

**281—15.6(256) School responsibilities.** Each board of a school district or an accredited nonpublic school employing telecommunications for instruction shall develop policies relative to the use of telecommunications in the delivery of the educational program that are consistent with effective clinical practice. The school district or accredited nonpublic school shall report its use of telecommunications for instruction annually to the department on forms provided by the department. This report shall include:

1. To whom the instruction was delivered including class size, type of class (such as seminar or lecture), and grade level;

2. The course description and schedule of instruction;

3. The number, assignment, licensure including the licensing folder number, and the training received regarding effective practices which enhance learning by telecommunications of all staff involved in the teaching/learning process at both the origination and the receiving sites.

4. The type of telecommunications used for course delivery, e.g., Internet, ICN, Polycom, etc.

DIVISION II

ONLINE LEARNING OFFERED BY A SCHOOL DISTRICT

**281—15.7(256) School district responsibilities.** Subject to the prohibition in rule 281—15.8(256), any online coursework offered by a school district shall be offered solely to resident students of the school district and shall be taught by a teacher appropriately

licensed and endorsed for the educational level and content area being taught. The teacher may be employed directly by the school district or by a third party provider of the online curricula used by the school district. Teachers employed by the school district shall be subject to all provisions of Iowa Code chapters 272, 279, and 284; teachers employed by a third party provider shall be subject to all the provisions of Iowa Code chapter 272 and must be given access to appropriate professional development by the school district, but are not otherwise subject to the provisions of Iowa Code chapters 279 and 284.

**281—15.8(256) Prohibition regarding open enrollment.** Open enrollment of students to a school district that offers online coursework is limited to open enrollment to the receiving school districts of CAM and Clayton Ridge. Participation in online learning at the CAM and Clayton Ridge school districts by way of open enrollment is limited to enrollment through the 2014-2015 school years. Such open enrollments are further restricted as follows:

*a.* All applicable open enrollment deadlines in Iowa Code section 282.18 and 281—Chapter 17 apply.

*b.* No more than eighteen one-hundredths of one percent (00.18%) of the most recent statewide certified enrollment of all publicly enrolled elementary and secondary students, as published in the department's current annual condition of education report, may participate in online learning by way of open enrollment. In determining which students shall be awarded open enrollment, should the number of open enrollment requests exceed this limitation, CAM and Clayton Ridge shall contact the department and

provide the specific information to the department, and the department shall apply the following priorities in awarding open enrollment.

1. Highest priority shall be given to students already open enrolled to CAM or Clayton Ridge and to students with a sibling already open enrolled to CAM or Clayton Ridge.

2. Priority shall be given to students who have been the documented victims of harassment or bullying at school, as defined in Iowa Code section 280.28.

3. Priority shall be given to students who are suffering from a serious health condition, or is medically fragile, where an online learning environment would be in the best educational interests of the student.

4. Once the above priorities have been considered and applied, approval of any remaining student requests for open enrollment shall be determined by lottery. In granting open enrollment requests by lottery, the proportion of open enrolled students statewide attending CAM and Clayton Ridge during the 2012-2013 school year shall be maintained.

c. No more than one percent of a resident district's certified enrollment may participate in online learning by way of open enrollment. If any resident district has cumulative open enrollment applications to the CAM and Clayton Ridge school districts in excess of one percent of the resident district's certified enrollment, the resident district shall contact the department and provide the specific information to the department. In determining which students shall be awarded open enrollment, the following priorities shall be followed.

1. Highest priority shall be given to students already open enrolled to CAM or Clayton Ridge and to students with a sibling already open enrolled to CAM or Clayton Ridge.

2. Priority shall be given to students who have been the documented victims of harassment or bullying at school, as defined in Iowa Code section 280.28.

3. Priority shall be given to students who are suffering from a serious health condition, or is medically fragile, where an online learning environment would be in the best educational interests of the student.

4. Once the above priorities have been considered and applied, approval of any remaining student requests for open enrollment shall be determined by lottery.

**281—15.9(256) Special education services.** Children with disabilities may not be categorically excluded from admission to online learning programs or from enrollment in online coursework.

*a. Whether* an online course or online learning is appropriate to a child with a disability must be determined by the child's needs, not by the child's weightedness. If a child's IEP (individualized education program) goals cannot be met in online learning, with or without supplementary aids and services or modifications, online learning is not appropriate to the child.

*b.* If a child's IEP team determines that online learning is inappropriate to the child, the child's parents are entitled to prior written notice pursuant to rule 281—41.503(256B,34CFR300), and have their procedural safeguards under rule 281—41.504(256B,34CFR300) available to them.

*c.* When a child with an IEP seeks enrollment into an online learning program by way of open enrollment, in addition to all other open enrollment requirements under chapter 281—17, the child's IEP team must determine, with representatives of the resident and receiving districts and the relevant area education agencies, whether the receiving district is able to provide an appropriate online education to the child, either with or without supplementary aids and services or modifications. Any dispute about whether the receiving district is appropriate is resolved by the director of special education of the area education agency in which the receiving district is located. The child remains in the child's resident district while any dispute about the appropriateness of the receiving district's program is pending.

DIVISION III

IOWA LEARNING ONLINE [ILO]

**281—15.10(256) Appropriate applications of ILO coursework.** ILO courses are intended to help Iowa school districts expand learning opportunities by providing opportunities for individual students to take one or more courses offered "at a distance" using technologies such as the Internet and interactive videoconferencing. Participating school districts and accredited nonpublic schools may also enroll students in ILO courses if online learning is more suited to a specific student's circumstances.

**281—15.11(256) Inappropriate applications of ILO coursework; criteria for waiver.** ILO courses are not to be used by a participating school district or accredited nonpublic school as a long-term substitute for any course required to be offered and taught under 281—chapter 12. The department may grant for one year a waiver from the requirement

to offer and teach a specific subject if the school district or accredited nonpublic school demonstrates all of the following:

1. The subject and grading period or periods for which waiver is requested.

2. Reasons why the school district or accredited nonpublic school does not have a teacher employed who is appropriately licensed and endorsed for the educational level and content area being taught.

3. The steps taken by the school district or accredited nonpublic school to employ a teacher who is appropriately licensed and endorsed for the educational level and content area being taught.

4. Approval of the request by the local school board.

**281—15.12(256) School and school district responsibilities.** Each participating school district and accredited nonpublic school shall submit its online curricula, excluding coursework provided by ILO, to the department for review. Each participating school district and accredited nonpublic school shall include in its comprehensive school improvement plan submitted pursuant to Iowa Code section 256.7, subsection 21, a list and description of the online coursework offered by the school or school district, excluding coursework provided by ILO. Each participating school district and accredited nonpublic school is responsible for recording grades received for ILO coursework in a student's permanent record and awarding graduation credit for ILO coursework. Each participating school shall identify a site coordinator to serve as a student advocate and as a liaison between the initiative staff and teachers and the school district or accredited nonpublic school.

**281—15.13(256) Department responsibilities.** The department shall annually evaluate the quality of courses offered under ILO to ensure that coursework is rigorous and of high quality, aligned with Iowa's core curriculum and core content requirements and standards, as well as national standards of quality for online courses issued by an internationally recognized association for elementary and secondary online learning. The department shall ensure that all ILO coursework is taught by a teacher who is appropriately licensed and endorsed for the educational level and content area being taught and who has completed an online-learning-for-Iowa-educators professional development course offered by an area education agency, a teacher preservice program, or comparable coursework.

**281—15.14(256) Enrollment in an ILO course.** A student must be enrolled in a participating school district or accredited nonpublic school. The student's school of enrollment registers the student for the desired ILO course. Students and parents or guardians may not enroll in ILO courses directly. Students under competent private instruction may access ILO coursework on the same basis as regularly enrolled students of the school district by dual enrollment in the school district in which the student is a resident.

These rules are intended to implement 2012 Iowa Acts, Senate File 2284, sections 13 to 17, and Iowa Code subsections 256.7(7 – 9).