

Iowa State Board of Education

Executive Summary

August 5, 2020



Agenda Item: Rules: 281 IAC Chapter 41– Special Education (Notice)

State Board Priority: Creating a Safe, Healthy, and Welcoming Learning Environment

State Board Role/Authority: Iowa Code section 256.7(5) gives the State Board of Education the statutory authority to adopt rules under Chapter 17A.

Presenter(s): Thomas Mayes, Attorney

Attachment(s): One

Recommendation: It is recommended that the State Board give notice of its intent to amend Chapter 41.

Background: Senate File 2360 added conditions to special education law regarding the use of room clears as a classroom safety technique. This proposed rule making adds those two conditions to Chapter 41: a prohibition on including room clears in an individualized education program and a procedure for classroom teachers to call for a team meeting after a room clear is used.

EDUCATION DEPARTMENT[281]

Notice of Intended Action

**Proposing rule making related to Individualized Education Programs
and providing an opportunity for public comment**

The State Board of Education hereby proposes to amend Chapter 41, “Special Education,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 256.7.

State or Federal Law Implemented

These rules are intended to implement 34 C.F.R. part 300, Iowa Code section 256B.2, as amended by Senate File 2360, and Iowa Code section 279.51A, as adopted by Senate File 2360.

Purpose and Summary

Senate File 2360 added conditions to special education law regarding the use of room clears as a classroom safety technique. This proposed rule making adds those two conditions to Chapter 41: a prohibition on including room clears in an individualized education program and a procedure for classroom teachers to call for a team meeting after a room clear is used.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 15, 2020. Comments should be directed to:

Thomas A. Mayes
Department of Education
Grimes State Office Building, Second Floor
Des Moines, Iowa 50319-0416
Phone: 515.242.5614
Email: thomas.mayes@iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

September 15, 2020
3:00 p.m. to 4:00 p.m.

State Board Room, Second Floor
Grimes State Office Building
East 14th Street and Grand Avenue
Des Moines, Iowa

Persons may also participate by video conference at:
<https://idoe.zoom.us/j/98138678227?pwd=NE11VUVIdEtTd29QbnlsaVhhdytXZz09>

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to a mobility or sensory disability, should contact the Department and advise of specific needs by calling 515.281.5295.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

Item 1. Amend rule 281—41.320(256B,34CFR300), by adding the following new subrule 7.

41.320(7). *Clearing Classrooms.* An IEP or a behavioral intervention plan shall not include provisions for clearing all other students out of the regular classroom in order to calm the child requiring special education or the child for whom a behavioral intervention plan has been implemented except as provided in section 279.51A.

If a student whose behavior caused a classroom clearance has an IEP or a behavioral intervention plan, the classroom teacher shall call for and be included in a review and potential revision of the student's IEP or behavioral intervention plan by the student's IEP Team. The AEA, in collaboration with the school district, may, when the parent or guardian meets with the IEP Team during the review or reevaluation of the student's IEP, inform the parent or guardian of individual or family counseling services available in the area. The public agencies must provide those services if those services are necessary for a FAPE.