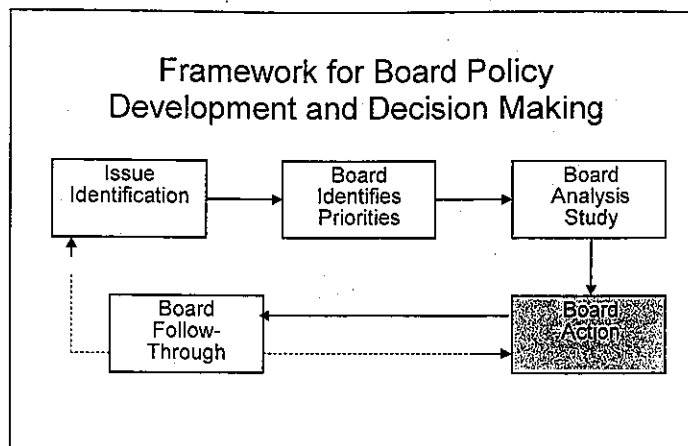


# Iowa State Board of Education

## Executive Summary

April 30, 2009



- Agenda Item:** Rules: Chapters 12 (Accreditation) and 58 (School Breakfast and Lunch Program) (Adopt)
- Iowa Goal:** All K-12 students will achieve at a high level.
- Equity Impact Statement:** All school districts and accredited nonpublic schools are governed by these rules, which implement the provisions of the Healthy Kids Act of 2008.
- Presenter:** Carol Greta, Attorney  
Office of the Director
- Attachments:** 2
- Recommendation:** It is recommended that the State Board adopt and file the following amendments to this chapter.
- Background:** The Healthy Kids Act (2008 Iowa Acts, Senate File 2425, Division XI) creates several mandates for students, school districts, and accredited nonpublic schools. These include the following:

1. Establishes minimum time periods of physical activity for physically able elementary and secondary students:
  - a. Students in grades K – 5, 30 minutes/day
  - b. Students in grades 6 – 12, 120 minutes/week
2. Every student physically able to do so is to complete a certification course for cardiopulmonary resuscitation by the end of grade 12.
3. The State Board is to mandate nutritional content standards for food and beverages sold or provided on school grounds during the school day.

The third mandate is included in chapter 58; the other mandates are included as edits to chapter 12.

Changes made since these rules were published on Notice are explained in the preambles to each chapter.

EDUCATION DEPARTMENT [281]

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby Amends Chapter 12, "General Accreditation Standards," Iowa Administrative Code.

2008 Iowa Acts, Senate File 2425, division XI, created the "Healthy Kids Act." Specifically, these proposed rules implement section 142 of the legislation and its mandate of minimum time periods of physical activity for elementary and secondary pupils, as well as its mandate that every pupil who is physically able to do so complete a certification course for cardiopulmonary resuscitation by the end of grade 12.

The proposed amendment in Item 1 adds a definition of "physical activity," clarifying that the concept includes more than components of the physical education model. The proposed amendment in Item 2 includes the statutory exemption for both the physical activity requirement and the cardiopulmonary resuscitation course completion requirement. The proposed new subrules in Item 3 describe the physical activity requirement and the cardiopulmonary resuscitation course completion requirement.

Notice of Intended Action was published in the January 14, 2009, Iowa Administrative Bulletin as ARC #7504B. A public hearing was held via the Iowa Communications Network (ICN) on February 3, 2009, and public comments were allowed until close of business on that same date. Approximately 50 persons attended the public hearing, and roughly half of those in attendance spoke. In addition, 21 written comments were received.

Many of the concerns raised by school officials commented about the accountability for the physical activity requirement in subrule 12.5(19). The Department has developed a sample agreement for schools and school districts to use to track compliance with the physical activity requirement. The remainder of those commenting raised objections to the underlying legislation, expressed concerns that are not germane, or asked questions about implementation.

Since the Notice of Intended Action was published, two changes have been made to the amendments. As the result of public comment regarding accountability for the physical activity requirement, the duration of the agreement referenced in paragraph 12.5(19)“b” has been increased from no more than one semester to no more than one school year. The other change is not related to public comment. To avoid any confusion regarding what is meant by “spirit” activities, that term has been replaced in paragraph 12.5(19)“a” with the word “similar” activities.

An agencywide waiver provision is provided in 281—Chapter 4.

These amendments are intended to implement 2008 Iowa Acts, Senate File 2425, sections 142 and 145.

The following amendments are adopted.

ITEM 1. Adopt the following new definition in rule **281—12.2(256)**:

*“Physical activity”* means any movement, manipulation, or exertion of the body that can lead to improved levels of physical fitness and quality of life.

ITEM 2. Amend subrule 12.5(6) as follows:

**12.5(6) Physical education and health courses exemption** Exemption from physical education course, health course, physical activity requirement, or cardiopulmonary resuscitation course completion. A pupil shall not be required to enroll in either a physical education or health courses course if the pupil's parent or guardian files a written statement with the school principal that the course conflicts with the pupil's religious beliefs. A pupil shall not be required to enroll in a health course if the pupil's parent or guardian files a written statement with the school principal that the course conflicts with the pupil's religious beliefs. A pupil shall not be required to meet the requirements of subrule 12.5(19) regarding physical activity if the pupil's parent or guardian files a written statement with the school principal that the requirement conflicts with the pupil's religious beliefs. A pupil shall not be required to meet the requirements of subrule 12.5(20) regarding completion of a cardiopulmonary resuscitation course if the pupil's parent or guardian files a written statement with the school principal that the completion of such a course conflicts with the pupil's religious beliefs.

ITEM 3. Adopt the following **new** subrules 12.5(19) and 12.5(20):

**12.5(19) Physical activity requirement.** Subject to the provisions of subrule 12.5(6), physically able pupils in kindergarten through grade five shall engage in physical activity for a minimum of 30 minutes each school day. Subject to the provisions of subrule 12.5(6), physically able pupils in grades six through twelve shall engage in physical activity for a minimum of 120 minutes per week in which there are at least five days of school.

a. This requirement may be met by pupils in grades six through twelve by participation in the

following activities including, but not limited to:

(1) Interscholastic athletics sponsored by the Iowa High School Athletic Association or Iowa Girls High School Athletic Union;

(2) School-sponsored marching band, show choir, dance, drill, cheer, or similar activities;

(3) Non-school gymnastics, dance, team sports, individual sports; or

(4) Similar endeavors that involve movement, manipulation, or exertion of the body.

b. When the requirement is to be met in full or in part by a pupil using one or more non-school activities, the school or school district shall enter into a written agreement with the pupil. The agreement shall state the nature of the activity and the starting and ending dates of the activity and shall provide sufficient information about the duration of time of the activity each week. The agreement shall also be signed by the school principal or principal's designee and by at least one parent or guardian of the pupil if the pupil is a minor. The pupil shall sign the agreement, regardless of the age of the pupil. The agreement shall be effective no longer than one school year. There is no limit to the number of agreements that a school or school district may have with any one pupil during the enrollment of the pupil.

c. In no event may a school or school district reduce the regular instructional time, as defined by "unit" in subrule 12.5(14), for any pupil to enable the pupil to meet the physical activity requirement. However, this requirement may be met by physical education classes, activities at recess or during class time, and before- or after-school activities.

d. Schools and school districts must provide documentation that pupils are being provided with the support to complete the physical activity requirement. This documentation may be provided through printed schedules, district policies, student handbooks, and similar means.

**12.5(20)** *Cardiopulmonary resuscitation course completion requirement.* Subject to the provisions of subrule 12.5(6), at any time prior to the end of twelfth grade, every pupil physically able to do so shall have completed a psychomotor course that leads to certification in cardiopulmonary resuscitation. A school or school district administrator may waive this requirement for any pupil who is not physically able to complete the course. A course that leads to certification in CPR may be taught during the school day by either a school or school district employee or by a volunteer, as long as the person is certified to teach a course that leads to certification in CPR. In addition, a school or school district shall accept certification from any nationally recognized course in cardiopulmonary resuscitation as evidence that this requirement has been met by a pupil. A school or school district shall not accept auditing of a CPR course, nor a course in infant CPR only. This subrule is effective for the graduating class of 2011-2012.

EDUCATION DEPARTMENT [281]

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 58, "School Breakfast and Lunch Program," Iowa Administrative Code.

2008 Iowa Acts, Senate File 2425, division XI, created the "Healthy Kids Act." Specifically, these proposed rules implement sections 140 and 141 of the legislation and their mandate of nutritional content standards for foods and beverages sold or provided on school grounds during the school day. The first four items are amendments necessary to accommodate a new division of rules within Chapter 58. Item 5 creates the rules that establish the nutritional content standards for affected foods and beverages, and establishes the scope of these rules.

Notice of Intended Action was published in the January 14, 2009, Iowa Administrative Bulletin as ARC #7503B. A public hearing was held via the Iowa Communications Network (ICN) on February 3, 2009, and public comments were allowed until close of business on that same date. Approximately 100 persons attended the public hearing; 21 of those present at the public hearing spoke. In addition, 85 written comments were received.

The majority of those commenting raised concerns about the need for more time to make adjustments (education of students, parents, and vendors); the need for a definition of regulated fundraising; a desire that the school day be defined more expansively; and the fact that no yogurt meeting the standards was available on the market. Other concerns raised were regarding the need for

clarity regarding the fiber/whole grain standard; allowing or not allowing the use of non-nutritive sweeteners; and the desire for secondary students to have more choices.

As a result of public comment, the following changes were made:

- Yogurt is unrestricted
- Implementation time is now July 1, 2010 except as noted in the charts in rule 58.11
- A definition of "regulated fundraising" is added
- The fiber/whole grain standard has been clarified
- Secondary students have fewer restrictions than elementary students

No definition of school day was added to these rules, and no standard was made more strict.

An agencywide waiver provision is provided in 281—Chapter 4.

These amendments are intended to implement 2008 Iowa Acts, Senate File 2425, sections 140 and 141.

These amendments shall become effective July 1, 2010.

The following amendments are adopted.

**ITEM 1.** Amend **281—Chapter 58**, title, as follows:

SCHOOL BREAKFAST AND LUNCH PROGRAM;  
NUTRITIONAL CONTENT STANDARDS FOR OTHER FOODS AND  
BEVERAGES

**ITEM 2.** Amend rule 281—58.1(283A) as follows:



**281—58.1(283A,256) Authority of state department.** Iowa Code chapter 283A authorizes the department of education to administer the school breakfast and lunch programs in the public and nonpublic schools of the state. 2008 Iowa Acts, Senate File 2425, sections 140 and 141, authorize the state board of education to establish nutritional content standards for foods and beverages sold or provided on school grounds during the school day.

**ITEM 3.** Amend **281—Chapter 58** by adding the following new division title to precede rule 281—58.2(283A):

DIVISION I

SCHOOL BREAKFAST AND LUNCH PROGRAM

**ITEM 4.** Amend rule **281—58.2(283A)**, introductory paragraph, as follows:

**281—58.2(283A) Definitions.** For the purposes of this chapter division, the following definitions apply:

**ITEM 5.** Amend **281—Chapter 58** by adopting new division II, title, as follows:

DIVISION II

NUTRITIONAL CONTENT STANDARDS, OTHER FOODS AND BEVERAGES

**ITEM 6.** Adopt the following new rules 281—58.9(256) to 281—58.11(256) in division II:

**281—58.9(256) Definitions.** For the purposes of this division, the following definitions apply:

*“A la carte food sales”* means foods or beverages offered for sale by the school as part of the school’s food service program during the time the reimbursable school breakfast or lunch is served and that is not part of the reimbursable breakfast or lunch.

*"Regulated fundraising"* means the sale of foods or beverages on school property targeted primarily to PK-12 students by or through other PK-12 students, student groups, school organizations, or through on-campus school stores.

*"School"* means a school district or accredited nonpublic school.

*"School breakfast program or school lunch program"* means a program under which breakfasts and lunches or lunches are served by any school in the state of Iowa on a nonprofit basis to children in attendance, including any such program under which a school receives assistance out of funds appropriated by the Congress of the United States.

**281—58.10(256) Scope.** The rules in this division regulate the nutritional content of foods and beverages sold or provided on the school grounds of any school during the school day, including foods and beverages sold via vending machines, foods and beverages sold as *a la carte* items, and foods and beverages sold as part of regulated fundraising. These rules do not regulate the nutritional content of foods or beverages provided through a school breakfast program or school lunch program, sold as a part of other fundraising events, sold at concession stands, provided by parents, other volunteers, or students for class events, or provided by staff for consumption by staff or students. The board of directors of a public school district or the authorities in charge of an accredited nonpublic school may, but are not required to, prescribe reasonable rules for their staff, volunteers, students, and parents, guardians, or custodians of students to adhere to regarding foods and beverages provided on school grounds by staff, volunteers, students, and parents, guardians, or custodians of students.

**281—58.11(256) Nutritional content standards.**

### Foods Table

Nutrient	A la Carte, Vending, and Regulated Fundraising Items
Calories	$\leq$ NSLP entrée items* OR $\leq$ 400 calories per entrée item  $\leq$ NSLP sides* OR $\leq$ 200 calories
Sodium	$\leq$ NSLP entrée items* OR $\leq$ 600 mg per entrée item [ $\leq$ 480 mg/serving entrees (2014)]  $\leq$ NSLP side* OR $\leq$ 400 mg/serving sides [ $\leq$ 200 mg/serving sides (2014)]
Saturated fat	$\leq$ 10% calories (excluding reduced fat cheese)
Trans fat	$\leq$ 0.5 gm/serving
Total fat	$\leq$ 35% calories (excluding nuts, seeds, nut butters and reduced fat cheese)
Sugar	$\leq$ 35% calories (excluding fruits and yogurts)
Dietary fiber/ whole grain	50% of grains offered must be whole grain

\*NSLP (National School Lunch Program) menu items offered in the same portion size and frequency per week as they appear on the NSLP menu.

### Beverages Table

Beverage	A la Carte, Vending, and Regulated Fundraising Items
Milk	Low/nonfat regular Low/nonfat flavored no nonnutritive sweeteners In addition: ≤ 27 gm sugar/8 oz (2014) ≤ 24 gm sugar/8 oz (2017) ≤ 22 gm sugar/8 oz (2020)
100% Fruit/Vegetable Juice	No added sweeteners
Water	No added nonnutritive sweeteners
Sports Drinks, Flavored Water	None to be made available to elementary students during the school day as vending machine, <i>a la carte</i> , or regulated fundraising items
Caffeinated Beverages	None are to be made available to students in elementary grades during the school day as vending machine, <i>a la carte</i> , or regulated fundraising items, with the exception of beverages that contain trace amounts of naturally occurring caffeine-related substances (e.g., chocolate milk)
Sodas/ Carbonated Beverages	None are to be made available to any students during the school day as vending machine, <i>a la carte</i> , or regulated fundraising items

In addition to compliance with the above tables, schools and school districts that offer *a la carte*, vending, and regulated fundraising items shall ensure that those offerings include at least two fruits or non-fried vegetables, with no more than one being a juice option.

**ITEM 7.** Amend **281—Chapter 58**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 283A and 2008 Iowa Acts, Senate File 2425, sections 140 and 141.