

# Iowa State Board of Education

## Executive Summary

August 4, 2022



**Agenda Item:** Rules: 281 IAC Chapter 19 – Charter Schools (Notice of Intended Action **and** Adopted and Filed - Emergency)

**State Board Priority:** Eliminating Achievement and Opportunity Gaps

**State Board Role/Authority:** This rule making is proposed under the authority provided in Iowa Code section 256.7(5) and House File 2589, section 40.

**Presenter(s):** Thomas A. Mayes, General Counsel  
Kassandra Cline, Bureau Chief  
Eric Heitz, Administrative Consultant  
Janet Boyd, Consultant

**Attachment(s):** Two

**Recommendation:** It is recommended that the State Board amend chapter 19 on an emergency basis.

It is further recommended that the State Board give notice of its intent to amend chapter 19.

**Background:** House File 2575's Division IX revised charter school funding. The Division is effective on enactment. This double barrel rulemaking implements this Division, which authorizes emergency rulemaking. It also eliminates surplus language regarding a Board of Educational Examiners duty that the Board has already fulfilled.

## EDUCATION DEPARTMENT[281]

### Notice of Intended Action

The State Board of Education hereby proposes to amend Chapter 19, “Charter Schools,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 256.7(5).

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, 2022 Iowa Acts, House File 2575.

#### *Purpose and Summary*

This rule making revises charter school funding, in light of House File 2575’s required revisions.

#### *Fiscal Impact*

This rule making has the following fiscal impact to the state of Iowa, according to the Notes on Bills and Amendments: “An estimated 275 students will attend a charter school who were not included in the actual enrollment of the district of residence for FY 2023. The Department of Education will pay to the charter schools an estimated \$2,600,000 from the General Fund standing unlimited appropriation for charter school funding during FY 2023.”

#### *Jobs Impact*

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

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to chapter 281—4.

*Public Comment*

Any interested person may submit comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department of Education no later than 4:30 p.m. on September 13, 2022. Comments should be directed to:

Thomas Mayes  
Department of Education  
Grimes State Office Building, Second Floor  
400 East 14th Street  
Des Moines, Iowa 50319-0146  
Phone: 515.281.8661  
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:

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

September 13, 2022, from 10:00 a.m. to 10:30 a.m.

State Board Room, Second Floor  
Grimes State Office Building  
Des Moines, Iowa  
Via videoconference:

<https://idoe.zoom.us/j/97073620964?pwd=Q1MvVDVCNmZQZWZFczErSzNBcWxsUT09>

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Education and advise of specific needs

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.

*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 action proposed:

ITEM 1. Amend paragraph **281.19(11)“c”** as follows:

c. An individual who holds an authorization to be a charter school administrator issued by the board of educational examiners under Iowa Code chapter 272. ~~The board of educational examiners shall adopt rules for the issuance of such authorizations not later than December 31, 2021, and such authorizations shall only be valid for service or employment as a charter school administrator.~~

ITEM 2. Amend subrules 19.12(2) through 19.12(4) as follows:

**19.12(2)** ~~The school district of residence shall pay to the~~ charter school in which the student is enrolled ~~in the manner required under Iowa Code section 282.18, and pursuant to the timeline in Iowa Code section 282.20(3);~~ shall receive under subrule 19.12(4) an amount equal to the sum of the state cost per pupil for the previous school year, plus the teacher leadership supplement state cost per pupil for the previous fiscal year as provided in Iowa Code section 257.9, plus any moneys received by the school district of residence for the student as a result of the non-English speaking weighting under Iowa Code section 280.4(3) for the previous school year, multiplied by the state cost per pupil for the previous year. If a student is an eligible pupil under Iowa Code section 261E.6, the charter school shall pay the tuition reimbursement amount to an eligible postsecondary institution as provided in Iowa Code section 261E.7.

**19.12(3)** For a student requiring special education, the school district of residence shall pay to the charter school, pursuant to the timeline in section 282.20, subsection 3, the actual costs incurred in providing the appropriate special education.

**19.12(4)** ~~For each student enrolled in the charter school who was not included in the actual enrollment of the district of residence under Iowa Code section 257.6(1) in the previous school year, the~~ The amount otherwise required to be paid to the charter school under subrule 19.12(2) or 19.12(3) shall instead be paid by the department to the charter school for during the student's initial year of enrollment school year for which the student is enrolled in the charter school. The amount paid to the charter school under this paragraph shall result in an equal reduction to the school district of residence's state aid payment amount under chapter 257 for the school budget year following the school year for which the payment to the charter school is made, so long as the student was counted in the district of residence's actual enrollment in the school year for which the student attended the charter school.

ITEM 3. Amend subrule 19.12(7) as follows:

**19.12(7)** If necessary, and pursuant to ~~rules adopted by the state board~~ paragraph "a", funding amounts required under this rule for the first school year of a new charter school shall be based on enrollment estimates for the charter school included in the charter school contract. ~~Initial amounts~~ The process set out in paragraph "b" shall be used for determining estimated enrollments for charter school funding purposes in school years after the first year of a charter school. Amounts paid using estimated enrollments shall be reconciled during the subsequent payment payments based on actual enrollment of the charter school during the first each school year pursuant to paragraph "c".

a. Enrollment estimates for the first school year shall be based on the number of enrolled students reported to the department through the student information system by August 5 of the school year.

b. Enrollment estimates for school years following the first school year shall be based on the number of enrolled students reported to the Department through the student information system by August 5 of the school year.

c. Estimated payments shall be reconciled, at minimum, based on actual enrollment information reported by the charter school pursuant to Iowa Code sections 256.9(44) and 257.6.

*Emergency Rule Making Adopted by Reference*

This proposed rule making is also published herein as an Adopted and Filed Emergency rule making (see ARC {XXXXC}). The purpose of this Notice of Intended Action is to solicit public comment on that emergency rule making, whose subject matter is hereby adopted by reference.

**EDUCATION DEPARTMENT[281]**

**Adopted and Filed Emergency**

The State Board of Education hereby amends Chapter 19, “Charter Schools,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 256.7(5).

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2022 Iowa Acts, House File 2575.

*Purpose and Summary*

This rule making revises charter school funding, in light of House File 2575’s required revisions.

*Reason for Adoption of Rule Making Without  
Prior Notice and Opportunity for Public Participation*

Pursuant to Iowa Code section 17A.4(3), the State Board finds that notice and public participation are unnecessary or impractical because Division IX of House File 2575 was effective upon enactment. Division IX authorizes emergency rule making.

*Reason for Waiver of Normal Effective Date*

Pursuant to Iowa Code section 17A.5(2)“b”(1), the State Board also finds that the normal effective date of rule making, 35 days after publication, should be waived and the rule making made effective August 4, 2022, because the statute so provides.

*Adoption of Rule Making*

This rule making was adopted by the State Board on August 4, 2022.

*Fiscal Impact*

This rule making has the following fiscal impact to the state of Iowa, according to the Notes on Bills and Amendments: “An estimated 275 students will attend a charter school who were not included in the actual enrollment of the district of residence for FY 2023. The Department of Education will pay to the charter schools an estimated \$2,600,000 from the General Fund standing unlimited appropriation for charter school funding during FY 2023.”

*Concurrent Publication of Notice of Intended Action*

In addition to its adoption on an emergency basis, this rule making has been initiated through the normal rule-making process and is published herein under Notice of Intended Action as ARC {XXXXC} to allow for public comment.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to chapter 281—4.

*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).

*Effective Date*

This rule making will become effective on August 4, 2022.

The following rule-making action is adopted:

ITEM 1. Amend paragraph **281.19(11)“c”** as follows:

*c.* An individual who holds an authorization to be a charter school administrator issued by the board of educational examiners under Iowa Code chapter 272. ~~The board of educational examiners shall adopt rules for the issuance of such authorizations not later than December 31, 2021, and such authorizations shall only be valid for service or employment as a charter school administrator.~~

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~~year, the~~ The amount otherwise required to be paid to the charter school under subrule 19.12(2) or 19.12(3) shall instead be paid by the department to the charter school for during the student's initial year of enrollment school year for which the student is enrolled in the charter school. The amount paid to the charter school under this paragraph shall result in an equal reduction to the school district of residence's state aid payment amount under chapter 257 for the school budget year following the school year for which the payment to the charter school is made, so long as the student was counted in the district of residence's actual enrollment in the school year for which the student attended the charter school.

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c. Estimated payments shall be reconciled, at minimum, based on actual enrollment information reported by the charter school pursuant to Iowa Code sections 256.9(44) and 257.6.