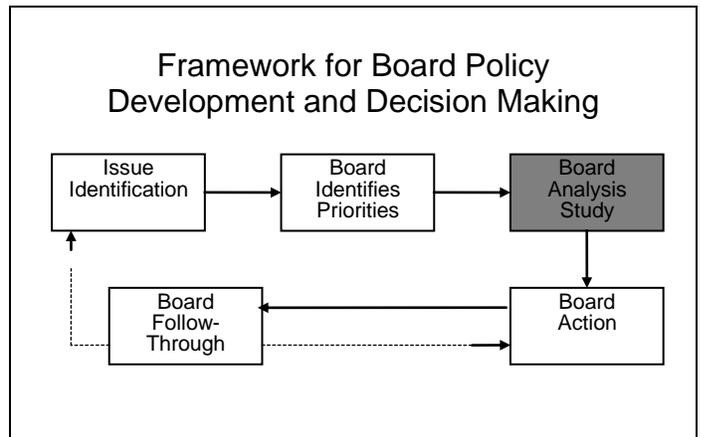


Iowa State Board of Education

Executive Summary

January 14, 2010



Agenda Item: Information Session: Rules Review Process

Iowa Goal: All

Equity Impact Statement: This session will enhance the State Board's understanding of the administrative rules process.

Presenter: Carol Greta, Attorney
Office of the Director

Attachments: 1

Recommendation: It is recommended that the State Board hear and discuss this information.

Background: One of the statutory duties of the State Board is to adopt rules for carrying out the responsibilities of the Department of Education (Department). The Board has asked for a review of the process.

All administrative rules are published in the Iowa Administrative Code. The Department has 54 active chapters of its own rules, and Department staff are also responsible for the administrative rules of the School Budget Review Committee (eight chapters of rules) and Libraries and Information Services Division (11 chapters of rules).

Deciding when to engage in the process:

- Mandated by federal or state legislation (e.g., Healthy Kids Act).
- In response to a citizen petition for rulemaking.
- As part of regular review by staff; “triggers” of rulemaking or review of existing rules by Department of Education staff:
 - Annual regulatory plan, which is submitted by each agency by August 31 of each year as a means of alerting the Governor’s office, the Legislature, and the public as to what we reasonably foresee as rulemaking activity for the fiscal year.
 - Biannual waiver reports, submitted by each agency on a public website as a tracking device regarding identity of rules from which waivers are sought and the agency’s response.
 - Lists are constantly kept by staff (particularly by rules coordinator and legislative liaison) as situations arise, as a means of keeping track of changes to suggest in the future.
 - Executive Order # 8, signed by Governor Vilsack on September 14, 1999, requires each agency to undertake a formal process of review of its rules to eliminate outdated, redundant, over-broad, unnecessary, or otherwise undesirable rules and to ensure that remaining rules are needed, effective, reasonable, clear, and consistent with legislative intent and the authority of the Department.

Information that must be gathered by Department staff:

- Specific rule(s) to be changed.
- Summary of change(s).
- Reason for change(s).
- Is the change mandated by state or federal law?
- Effects – who will be affected, when, how.
- Likely areas of public comment.
- Who are interested stakeholders?
- Fiscal impact.

Timeline for rulemaking process:

1. Rule changes are drafted and approved by necessary internal Department personnel and interested stakeholders (if appropriate).
2. State Board of Education votes its approval of rule change via “**Notice of Intended Action.**” NOW the formal rulemaking timeline is initiated.
3. Documents electronically submitted to Administrative Rules Coordinator by Carol Greta include:
 - a. Form A, Notice of Intended Action
 - b. Preamble and Exact Text of Rules
 - c. Fiscal Impact Statement
4. Rule changes are published in the Administrative Rules Bulletin. The Bulletin is published every other week. The documents in #3 above must be submitted three weeks in advance of a publication date.
5. There is a minimum period of 20 days for public comment. Day 1 is the day after the documents are published. During this time, it is necessary to hold one or more public hearings if the rules are not routine or nonsubstantive in nature. Date, time, and place of public hearing must be published in the Administrative Rules Bulletin.
6. After the rule changes are first published, the first of two hearings is held before the Legislature’s Administrative Rules Review Committee (ARRC). The ARRC does not vote approval; rather, the rules move forward unless the ARRC takes action to delay a rule.
7. First possible date that the State Board can **Adopt** the rule changes is 15 days after the close of the public comment period. (Of course, the State Board doesn’t meet every month, so it may be several weeks after the first possible date that the rules are actually adopted by the State Board.)
8. Adopted rule changes are electronically submitted to the Administrative Rules Coordinator for second publication in the Administrative Rules Bulletin; again, they must be submitted three weeks before publication date.
9. Second hearing before ARRC is held.
10. First possible effective date of rule changes is 35 days after second publication.
11. Notice of Intended Action expires if nothing more is done 180 days after first publication.