Iowa State Board of Education

Executive Summary

September 26, 2013

Agenda Item: Rules: Chapter 97 – Supplementary Weighting (Operational Sharing) (Adopt)

Iowa Goal: All PK-12 students will achieve at a high level.

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: Mike Cormack, Policy Liaison Office of the Director

Attachments: 1

Recommendation: It is recommended that the State Board adopt the changes to Chapter 97.

Background: During the past legislative session, legislative changes were made in two pieces of legislation to Chapter 97 rules. The current operational sharing incentives to local districts were due to expire next year. Under new Iowa law, these will continue and are expanded to serve other classifications of positions that two districts can share to participate in the program. In addition, districts need no longer be adjoining to participate in operational sharing. The new rules provide clarity to local districts on how to be part of this program moving forward and again, comply with the new legislative changes.

There have been no changes to the rules from the notice stage. There has been substantial comment on these rules, at both the Administrative Rules Review Committee (ARRC) meeting and at the public hearing where there was much discussion on the potential cost of...
this program should the current rules be expanded in scope. The ARRC discussed the strong possibility of a referral of these rules back to the Legislature on a session delay when they see them again. The general comments by the ARRC were agreement that the Department was correct to have a conservative approach in the rules for this program, due to the potential of costs and property tax impact that were not fully understood at the time of passage of the law.

At the ARRC meeting and at the public hearing later the same day, there were comments offered to the value of the program and the educational opportunities of cost sharing. There were 53 people in attendance at the public hearing with the majority being in local school administration or affiliated with representation in the Iowa Association of School Boards (IASB) or School Administrators of Iowa (SAI). Many expressed concern that they or others may have moved forward in hiring based upon the assumption they would be compensated under this law for those choices. In addition, written comments were presented, including a petition from IASB with 230 signatures in favor of a more open interpretation of the law than the current law requires.

Many administrators offered their services in public comment to try to find common ground agreement on the topic. Some cited the ability to share services as essential, but perhaps the current Iowa Code could be less generous in compensation to the districts as a potential compromise. This would fund the sharing while being fair to the state treasury.

General agreement at both the public hearing and at the ARRC meeting was that there is value in the operational sharing program. There seemed to be general consensus that further work should be done on the legislation by the next General Assembly to meet both the goals of educational opportunities while being sensitive to the other goal of cost savings.

The public hearing comments were extensive, thoughtful, and constructive. The general consensus throughout the day seemed to find value in having these rules make their way to the ARRC and then have a potential session delay at that point. Then, all interested groups can work toward compromise.
Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 97, “Supplementary Weighting,” Iowa Administrative Code.

This amendment is intended to comply with recent legislative changes that reauthorized and modified the current statute for supplementary weighting. Additional classifications of employees were allowed to be shared between districts. In addition, districts no longer need to be adjoining to participate in this program. The amendment reflects these changes and provides clarity for the operation of the program for participating districts.

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

Notice of Intended Action was published in the August 21, 2013, Iowa Administrative Bulletin as ARC #0967C. Public comments were allowed until 4:30 p.m. on September 10, 2013. A public hearing was held on that date where 53 individuals were present. A petition was presented with 230 signatures against the proposed rule. Printed materials were presented at the hearing against the rule and nearly an hour of public comment was heard from representatives of the group of 53. General comments were that while it was understood that the cost of the program was more excessive than planned under this law and the Department was being conservative in this rule because of that, nevertheless educational opportunities should be stressed and many have hired staff based upon the new law. Others shared that they hoped that a compromise could come forward that would protect the financial interests of the state while still allowing for the expansion of roles within this program with true cost coverage. In sum, commentators thought the rule was too strictly interpreted and would like to see expansion of it.

These amendments are identical to those published under Notice with no changes.

After analysis and review of this rule making, no impact on jobs has been found.
These amendments shall become effective on November 20, 2013.

This amendment is intended to implement 2013 Iowa Acts, House File 472, and Senate File 452, section 20(1).

The following amendments are adopted.

**Item 1.** Amend rule 281—97.7(257) as follows:

**281—97.7(257) Supplementary weighting plan for operational services.**

97.7(1) No change.

97.7(2) *Operational function area eligibility.* “Operational function sharing” means sharing of managerial personnel in the discrete operational function areas of superintendent management, business management, human resources management, student transportation management, or facility operation or maintenance management, social worker, school nurse, school counselor, or school librarian. “Operational function sharing” does not mean sharing of clerical personnel, librarians, counselors, nurses, and curriculum directors or school principals. The operational function sharing arrangement does not need to be a newly implemented sharing arrangement in order to be eligible for supplementary weighting.

a. to e. No change.

f. *Curriculum director.*

(1) Shared personnel must perform the services of a curriculum director for each of the sharing partners. An individual performing the function of a curriculum director must be properly licensed for that position.

(2) Clerical, paraprofessional, or other support services personnel in the improvement of instruction function area shall not be considered a shared curriculum director under this subrule.
(3) Shared curriculum director services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

g. **School administration manager.**

(1) Shared personnel must perform the services of a school administration manager for each of the sharing partners. An individual performing the function of a school administration manager must be properly licensed for that position.

(2) Principals, assistant principals, deans of students, or paraprofessional, clerical or other support services personnel in the school administration function area shall not be considered a shared school administration manager under this subrule.

(3) Shared school administration manager services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

h. **Social worker.**

(1) Shared personnel must perform the services of a social worker for each of the sharing partners. An individual performing the function of a social worker must be properly licensed for that position by holding a statement of professional recognition from the board of educational examiners.

(2) Assistants in social work or clerical, paraprofessional, or other support services personnel in the attendance and social work services function area shall not be considered a shared social worker under this subrule.
(3) Shared social worker services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

   i. School nurse.

   (1) Shared personnel must perform the services of a school nurse for each of the sharing partners. An individual performing the function of a school nurse must be properly licensed for that position by holding a statement of professional recognition from the board of educational examiners.

   (2) Assistants, licensed practical nurses, or paraprofessionals, aides, clerical or other support services personnel in the health or psychological services function area shall not be considered a shared school nurse under this subrule.

   (3) Shared school nurse services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

   j. School counselor.

   (1) Shared personnel must perform the services of a school counselor for each of the sharing partners. An individual performing the function of a school counselor must be properly licensed for that position.

   (2) Deans of students or clerical, paraprofessional, or other support services personnel in the guidance services function area shall not be considered a shared school counselor under this subrule.
(3) Shared school counselor services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

_k. School librarian._

(1) Shared personnel must perform the services of a school librarian for each of the sharing partners. An individual performing the function of a school librarian must be properly licensed for that position.

(2) Technology directors, media specialists, or paraprofessional, aide, clerical or other support services personnel in the library media services function area shall not be considered a shared school librarian under this subrule.

(3) Shared school librarian services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

97.7(3) _Years of eligibility._ A school district participating in an operational function sharing arrangement shall be eligible for supplementary weighting under this rule for a maximum of five years. The five years of eligibility shall include each year in which any shared operational function is included for supplementary weighting. The supplementary weighting for eligible shared operational functions may be included beginning on October 1, 2007. 2013.

_a._ Receipt of supplementary weighting after the first year shall be conditioned upon the submission of cost information provided in the format prescribed by the department of education as part of the BEDS fall data collection and certified annual report documenting cost savings directly attributable to the shared operational functions.
b. The documentation on the BEDS fall data collection shall be filed no later than the published deadline for that data collection and the documentation on the certified annual report shall be filed no later than September 15 preceding the October 1 on which the second, third, fourth, or fifth year of operational function sharing is included for supplementary weighting.

97.7(4) Contiguous districts. School districts that share operational functions with other school districts must are not required to be contiguous school districts. If two or more sharing partner districts are not contiguous to each other, all districts separating those districts must be a party to the operational function sharing arrangement.

97.7(5) Consecutive years. A school district that is eligible to add a supplementary weighting for resident students for a shared operational function is not required to utilize consecutive years. However, the final year in which a supplementary weighting may be added on October 1 for this purpose shall not be later than the school year that begins July 1, 2012 2018, and the total of all years in which a supplementary weighting may be added on October 1 for this purpose shall not exceed five years.

97.7(6) to 97.7(8) No change.

97.7(9) Multiple shared individuals in an operational function. A school district that implements more than one sharing arrangement within any discrete operational function area shall not be eligible for supplementary weighting if more than one shared individual is licensed and qualified for the same position. If the school district had utilized its own employees, the sharing arrangement or arrangements would not have been necessary.

97.7(9) 97.7(10) Weighting. Resident students eligible for supplementary weighting pursuant to rule 281—97.7(257) shall be eligible for a weighting of two-hundredths per pupil included in the actual enrollment in the district. The supplementary weighting shall be assigned
to each discrete operational function shared. The maximum number of years for which a supplementary weighting shall be assigned for all operational functions shared is five years.

a. The supplementary weighting for operational functions shared is decreased each year based on the following schedule:

(1) The total supplementary weighting calculated for all operational function sharing in the second year of any operational function sharing, after application of minimum and maximum supplementary weighting, shall be reduced by 20 percent of the total supplementary weighting for all operational function sharing in each of the previous years of any operational function sharing, but not reduced to less than zero.

(2) The total supplementary weighting calculated for all operational function sharing in the third year of any operational function sharing, after application of minimum and maximum supplementary weighting, shall be reduced by 20 percent of the total supplementary weighting for all operational function sharing in each of the previous years of any operational function sharing, but not reduced to less than zero.

(3) The total supplementary weighting calculated for all operational function sharing in the fourth year of any operational function sharing, after application of minimum and maximum supplementary weighting, shall be reduced by 20 percent of the total supplementary weighting for all operational function sharing in each of the previous years of any operational function sharing, but not reduced to less than zero.

(4) The total supplementary weighting calculated for all operational function sharing in the fifth year of any operational function sharing, after application of minimum and maximum supplementary weighting, shall be reduced by 20 percent of the total supplementary weighting
for all operational function sharing in each of the previous years of any operational function sharing, but not reduced to less than zero.

b. The decrease in the total supplementary weighting as described in paragraph “a” of this subrule shall be applied after any adjustment for minimum or maximum weighting has been applied.

e. The department shall reserve the authority to determine if an operational sharing arrangement constitutes a discrete arrangement, new arrangement, or continuing arrangement if the circumstances have not been clearly described in the Iowa Code or the Iowa Administrative Code.

97.7(10) 97.7(11) Maximum weighting. The maximum amount of additional weighting for which a school district participating in operational function sharing shall be eligible is an amount corresponding to 40 full-time equivalent pupils prior to any reduction pursuant to subrule 97.7(9). The maximum additional weighting applies to the total of all operational function sharing rather than to each discrete operational function.

97.7(11) 97.7(12) Minimum weighting. The minimum amount of additional weighting for which a school district participating in operational function sharing shall be eligible is an amount corresponding to ten additional pupils prior to any reduction pursuant to subrule 97.7(9). The minimum additional weighting applies to the total of all operational function sharing rather than each discrete operational function.

97.7(12) 97.7(13) Filing cost-savings documentation. Each school district that receives supplementary weighting for sharing one or more operational functions shall file with the department of education documentation of cost savings directly attributable to the shared operational functions. This documentation shall be submitted in the format prescribed by the
department of education as part of the certified annual report and the BEDS fall data collection. The district or AEA shall report the FTE for each discrete operational function area eligible for supplementary weighting on its BEDS fall data collection. The documentation certified annual report shall be filed no later than September 15 preceding the October 1 on which the second, third, fourth, or fifth year of operational function sharing is included for supplementary weighting and the BEDS fall data collection shall be filed no later than its published deadline. If a district or AEA does not file in a timely manner its certified annual report and its BEDS fall data collection, it will not be eligible to request operational function sharing supplementary weighting.

**97.7(13) 97.7(14)** Determining cost savings. The criteria considered by the department of education in determining shared operational function cost savings and increased student opportunities shall include, but not be limited to, the following:

a. The level of FTE for each discrete operational function area eligible for supplementary weighting as compared to the level of FTE for that same discrete operational function area in the 2012-2013 school year as reported on the BEDS fall data collection.

b. If, in the opinion of department staff, the FTE is not sufficient documentation on which to determine eligibility for operational function sharing supplementary weighting, the department may also review the following from the certified annual report:

a. (1) The percent of costs calculated as the total of general fund expenditures for all operational functions that could be shared, in function codes 2300 and greater, divided by the total of all general fund expenditures, multiplied by 100, in the current prior fiscal year compared to the previous 2012-2013 fiscal year. The current prior fiscal year is the fiscal year ending on June 30 as reported on the certified annual report that was due on September 15.
prior to October 1 on which the district included any operational function shared for supplementary weighting. The decrease in percent shall be a measurable decrease of at least one-tenth of one percent in the first fiscal year for which cost savings are determined. Cost savings and increased student opportunities shall be evidenced by the percent which is less than or equal to the percent in the 2012-2013 fiscal year. In a year after the first fiscal year for which cost savings are determined, the percent of costs shall not be greater than the percent in the previous fiscal year.

b. The percent of costs calculated as the total of general fund expenditures for all instruction, student support, and instructional staff support functions divided by the total of all general fund expenditures, multiplied by 100, in the current year compared to the previous year. The current year is the fiscal year ending on June 30 that includes the October 1 on which the district included any operational function shared for supplementary weighting. The increase in percent must be a measurable increase of at least one-tenth of 1 percent in the first fiscal year for which increased student opportunities are determined. In a year after the first fiscal year for which increased student opportunities are determined, the percent of costs shall not be less than the percent in the previous fiscal year.

c. (2) The department of education will adjust the total expenditures to exclude distorting financial transactions or interagency financial transactions. Distorting financial transactions shall be determined by the department of education.

d. If the district increases the total FTE of personnel in any discrete operational function area eligible for supplementary weighting, the district will not be eligible for supplementary weighting for operational function sharing for that discrete operational function area until the
fiscal year in which the FTE is decreased to or below the level reported by the district on its BEDS staff data collection in fiscal year 2012-2013.

d. If the district cannot demonstrate cost savings directly attributable to the shared operational function or increased student opportunities, the district will not be eligible for supplementary weighting for operational function sharing for that fiscal year.

97.7(14) 97.7(15) Area education agency maximum funding. The provisions of rule 281—97.7(257) also apply to an area education agency except for per-pupil weightings, minimum weightings, and maximum weightings.

a. In lieu of minimum weightings, an area education agency shall be eligible for a minimum amount of additional funding of $50,000 for the total of all operational function sharing arrangements. The dollar amount calculated in the first year of any operational function sharing will be used to determine the annual reductions.

b. In lieu of maximum weightings, an area education agency shall be eligible for a maximum amount of additional funding of $200,000 for the total of all operational function sharing arrangements. The dollar amount calculated in the first year of any operational function sharing will be used to determine the annual reductions.

c. In lieu of supplementary weighting of students, the department of management shall annually set a weighting for each area education agency to generate the approved operational function sharing dollars using each area education agency’s special education cost-per-pupil amount and foundation level.