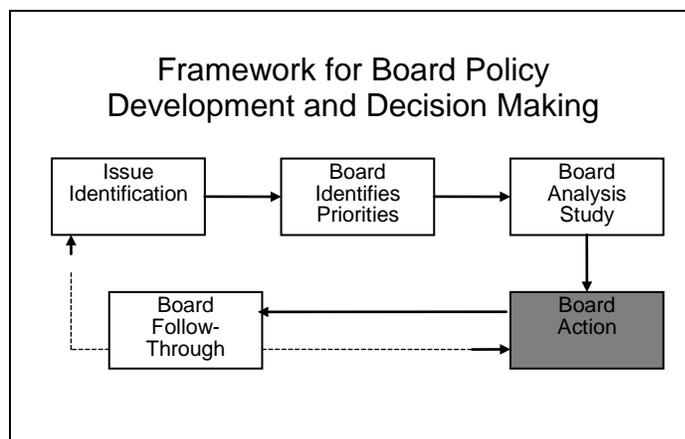


Iowa State Board of Education

Executive Summary

March 31, 2014



Agenda Item: Rules: Chapter 21 – Community Colleges (Operating While Intoxicated) (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: None (consent agenda)

Attachments: 1

Recommendation: It is recommended that the State Board adopt the changes to Chapter 21.

Background: These modifications to existing rules provide additional clarity to what is expected in classes that community colleges operate for drivers who have violated operating while intoxicated laws. Examples of such changes include expanding the location of where the classes can be held, eliminating one day classes and other details concerning these classes. These rules are an update to the status quo with the expectation that a higher quality course will result for all Iowans who are undergoing such coursework in this program.

There was no public comment on these rules. Lengthy comment was received at the Administrative Rules Review Committee where it was indicated that they did

not like the provision concerning out of state coursework transferring into Iowa if it were of lesser hours than Iowa. In the case of Nebraska and Minnesota, their out of state courses are 8 hours in length. As a result, these rules are unchanged except that the section concerning out of state coursework was removed from these rules.

With the removal of this section, we believe these rules will find approval at the ARRC. The bulk of the rule changes were left alone and we continue to support this measure in an amended form.

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 21, "Community Colleges," Iowa Administrative Code.

These modifications to existing rules provide additional clarity to what is expected in classes that community colleges operate for drivers who have violated operating while intoxicated laws. Examples include changing length of the program day, additional locations where classes may be held, eliminating one day classes and other related program modifications.

An agency-wide waiver provision is provided in 281—chapter 4.

Notice of Intended Action was published in the February 19, 2014, Iowa Administrative Bulletin as ARC #1340C. Public comments were allowed until 4:30 p.m. on March 11, 2014. A public hearing was held on that date in which no person appeared. No written or oral comments were received on this topic.

These amendments are identical to that published under Notice, except that proposed changes to out of state courses were removed. This reverts the concept on how out of state OWI credit shall be administered in Iowa, based upon discussion held at the Administrative Rules Review Committee.

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

These amendments shall become effective June 4, 2014.

These amendments are intended to implement Iowa Code section 321J.22 as amended by 2008 Iowa Acts, House File 2651, section 16.

The following amendments are adopted.

ITEM 1. Amend rule **281—21.30(321J)** as follows:

inform the offender about drinking and driving and encourage the offender to assess the offender's own drinking and **281—21.30(321J) Purpose.** ~~The purpose of the~~ instructional course for drinking drivers is designed to driving behavior in order to select practical alternatives.

ITEM 2. Amend rule **281—21.31(321J)** as follows:

281—21.31(321J) Course.

21.31(1) A course provided in accordance with Division III of this chapter shall be offered on a regular basis at each community college or by a substance abuse treatment program licensed under Iowa Code chapter 125. However, a community college shall not be required to offer the course if a substance abuse treatment program licensed under Iowa Code chapter 125 offers the course within the merged area served by the community college. A course provided in accordance with Division III of this chapter may be offered at a state correctional facility listed in Iowa Code section 904.102.

~~**21.31(2)** A course provided in accordance with Division III of this chapter may be offered at a state correctional facility listed in Iowa Code section 904.102.~~ The department of education shall maintain a listing of all providers of approved courses in the state and publish this listing on the department's Web site.

~~**21.31(3)** A course provided in accordance with Division III of this chapter may be offered by a provider in another state when the course and its provider are approved by the department of education pursuant to 2011 Iowa Acts, Senate File 470.~~ Individuals residing outside the state of Iowa required by the state of Iowa to take a course for drinking drivers shall have the opportunity to take the course in another state, provided:

a. The out-of-state course is comparable to those courses approved to be offered in the state of Iowa.

b. The course is delivered in a classroom setting and not online.

21.31(4) Enrollment in the course is not limited to persons ordered to enroll, attend, and successfully complete the course required under Iowa Code sections 321J.1 and 321J.17, subsection 2. ~~However, any~~ Any person under the age of 18 who is required to attend the courses for violation of Iowa Code section 321J.2 or 321J.17 must attend a course offered by a substance abuse treatment program licensed under Iowa Code chapter 125.

21.31(5) ~~Any~~ An instructional course shall be approved by the department of education in consultation with the community colleges, substance abuse treatment programs licensed under Iowa Code chapter 125, the Iowa department of public health, and the Iowa department of corrections. The course shall be delivered in a classroom setting with at least 12 hours of instructional time delivered over a minimum of a two-day period. The course may be offered in blocks not to exceed 4 hours with a minimum of a 30-minute break between blocks. Each student in the class shall receive an individual workbook, and workbooks shall not be reused. The course shall be taught by an instructor certified by the curriculum provider to teach the course. Each course of instruction shall establish the following:

a. An understanding that alcohol-related problems could happen to anyone and that a person's drinking choices matter. The course illustrates common views of society that prevent people from taking drinking choices seriously. Research is presented to challenge common views with an understanding that alcohol problems are related to lifestyle choices.

b. An understanding that specific low-risk choices will help reduce the risk of experiencing alcohol-related problems at any point in life. The course presents research-based, low-risk

guidelines.

c. Methods of providing support for making low-risk choices.

d. An accurate description of the progression of drinking to the development of alcoholism to help people weigh the risk involved with high-risk drinking and to see how high-risk choices may jeopardize their lives and the lives of others.

e. Opportunities to develop a specific plan of action to follow through with low-risk choices.

A list of community resources is provided for ongoing support and treatment as needed.

ITEM 3. Amend rule **281—21.32(321J)** as follows:

281—21.32(321J) Tuition fee established.

~~1. **21.32(1)** Each person enrolled in an instructional course for drinking drivers shall pay to the community college, or a substance abuse treatment program licensed under Iowa Code chapter 125, ~~or a state correctional facility~~ a tuition fee of \$85 for the approved 12-hour course, plus a reasonable book fee ~~or \$185 for the court-ordered approved 28-hour weekend course, plus a reasonable book fee. For the court-ordered approved 28-hour weekend course, the community college or the substance abuse treatment program licensed under Iowa Code chapter 125 shall set a reasonable fee for lodging, meals, and security. The court may allow an offender to combine the required course with a program that incorporates jail time. Reasonable fees may be assessed for costs associated with lodging, meals, and security.~~~~

~~2. **21.32(2)** A person shall not be denied enrollment in a course by reason of a person's indigency. For court-ordered placement, the court shall determine a person's indigency. In all other instances, the community college, substance abuse treatment program licensed under Iowa Code chapter 125, or state correctional facility shall determine indigence upon application.~~

ITEM 4. Amend rule **281—21.33(321J)** as follows:

281—21.33(321J) Administrative fee established.

21.33(1) *Students enrolled in Iowa.* ~~Beginning January 1, 2003, each~~ Each person enrolled in Iowa in an instructional course for drinking drivers under this chapter shall be charged an administrative fee of \$10. This fee is in addition to tuition and shall be collected by the provider of the instructional course in conjunction with the tuition fee established under 281—21.32(321J). The administrative fee shall be forwarded to the department of education on a quarterly basis as prescribed by the department. If a student has been declared by the court as indigent, no administrative fee will be charged to that student.

21.33(2) *Students enrolled in another state.* ~~Beginning January 1, 2004, each~~ Each person enrolled outside the state of Iowa in an instructional course for drinking drivers under this chapter shall be charged an administrative fee of \$25. This fee is in addition to tuition and shall be paid directly to the department of education by the student. Upon payment of the fee, the department of education shall review the educational component of the course taken by the student and shall inform the department of transportation whether the educational component is approved by the department of education.

ITEM 5. Adopt the following new rule **281—21.34(321J)**:

281—21.34(321J) Advisory committee. A drinking driver education advisory committee shall be established by the department of education to serve in an advisory capacity to the department of education in matters relevant to the instructional course for drinking drivers. Membership on this committee shall include representatives from agencies currently offering the instructional course for drinking drivers and may include other stakeholders.

ITEM 6. Amend **281—Chapter 21**, Division III implementation sentence, as follows:

The rules in this division are intended to implement Iowa Code section 321J.22 ~~as amended~~
~~by 2008 Iowa Acts, House File 2651, section 16.~~