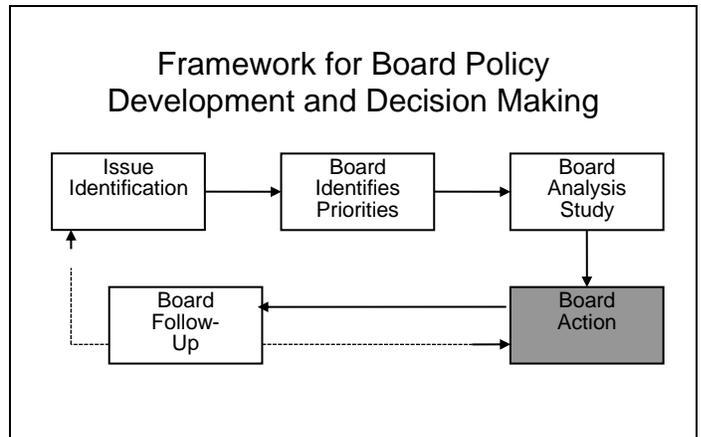


Iowa State Board of Education

Executive Summary

November 16, 2016



Agenda Item: Rules: 281 IAC Chapter 35 - Educational Standards and Program Requirements for Children’s Residential Facilities (Notice)

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.

Presenters: Dave Tilly, Deputy Director
Division of Learning and Results

Nicole Proesch, Administrative Rules Co-coordinator

Attachments: 1

Recommendation: It is recommended that the State Board give public notice of its intent to propose a new Chapter 35 as required in Senate File 2304.

Background: In the 2016 legislative session, the General Assembly enacted Senate File 2304 which addressed Standards and Certification and Inspection of Children’s Residential Facilities. This legislation requires the State Board of Education to adopt rules governing education programs and education services by children’s residential facilities pursuant to Iowa Code section 282.34. This rulemaking follows that directive.

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Pursuant to the authority of Iowa Code section 256.7(21), the State Board of Education hereby proposes a new Chapter 35, “Educational Standards and Program Requirements for Children’s Residential Facilities,” Iowa Administrative Code.

This Chapter outlines the educational standards and program requirements for children’s residential facilities. In the 2016 legislative session the General Assembly enacted Senate File 2304 which addressed Standards and Certification and Inspection of Children’s Residential Facilities. This legislation requires the State Board of Education to adopt rules governing education programs and education services by children’s residential facilities pursuant to Iowa Code section 282.34. This rulemaking follows that directive.

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

Interested individuals may make written comments on the proposed amendment until January 6, 2017, at 4:30 p.m. Comments on the proposed amendment should be directed to Nicole Proesch, Administrative Rules Co-Coordinator, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515) 281-8661; e-mail Nicole.proesch@iowa.gov; or fax (515)242-5988.

A public hearing will be held on January 6, 2017, from 10 to 11 a.m. in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should advise the Department of Education of specific needs by calling (515) 281-5295.

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

This new Chapter is intended to implement Senate File 2304 and Iowa Code section 282.34.

The following new Chapter is proposed.

CHAPTER 35
EDUCATIONAL STANDARDS AND PROGRAM REQUIREMENTS FOR
CHILDREN'S RESIDENTIAL FACILITIES

281---35.1(282) Scope. These rules apply to the provision of educational programs in children's private residential facilities and juvenile homes.

281---35.2(282) Intent. It is the intent of this chapter that all school-age children, including those younger than 5 and older than 18 who are eligible children to receive special education, who are living in any children's residential facility operated by a private entity providing residential care to children within the State of Iowa, which is not otherwise exempted by Iowa Code, shall be provided an appropriate education.

281---35.3(282) Definitions.

35.3(1) For purposes of this chapter, "*child*" or "*children*" means an individual or individuals under eighteen years of age, as well as children who are younger than 5 and older than 18 who are eligible children to receive special education.

35.3(2) For purposes of this chapter, "*children's residential facility*" means a facility operated by a private entity that is designed to serve children who have been voluntarily placed for reasons other than an exclusively recreational activity outside of their home by a parent or legal guardian and who are not under the custody or authority of the department of human services, juvenile court, or another

governmental agency as defined by Iowa Code section 237C.1. This shall also be referred to as a “private facility.”

35.3(3) For purposes of this chapter, a “*private entity*” shall refer to any residential entity that is not a public entity as described below.

35.3(4) For purposes of this chapter, “a *public entity*” shall refer to any facility housing school-age children and children eligible to receive special education, that are under the jurisdiction of the department of corrections, department of human services, board of regents, or other governmental agency and have current authority to offer direct instruction to children from funding available to the parent agency. Such public entity shall not bill any Iowa school district or area education agency for educational costs.

281---35.4(282) Establishing an appropriate educational program. A private entity operating a children’s residential facility shall not accept any child of school age or a child who is eligible to receive special education services, until the entity has been licensed or certified by the department of human services, juvenile court, or other Iowa governmental agency, and has established an appropriate educational program. A private entity operating a children’s residential facility may establish an appropriate educational program in one of three ways:

a. Becoming an accredited nonpublic school through the standards and accreditation process described in Iowa Code section 256.11 and adopted by rule by the state board of education.

b. Utilizing a written contract and having the public school district in which the private facility is located provide the educational program and educational services, either directly or by supervision of appropriately licensed staff of the public entity. In the case of a licensed juvenile home, this would be the area education agency of location rather than the school district of location.

c. Utilizing a written contract and having an accredited nonpublic school which is located within the same school district boundaries as the private facility is located provide the educational program and educational services, either directly or by supervision of appropriately licensed staff of the accredited

nonpublic school. This may require some services related to federal programs and special education to be provided by the school district as is otherwise the requirement for the accredited nonpublic school.

d. The educational program delivered through a contract established between the private entity and the school district or accredited nonpublic school shall meet, at a minimum, the standards established by Iowa administrative code rule 281—12.10(256).

e. Any contract established by the private entity with a school district or accredited nonpublic school shall include, at a minimum, but not be limited to, the physical location of the education program; the parties involved; the purpose of the contract; the program description in detail; the powers, duties and authority of each party to the contract; the jurisdiction of each party to the contract; the dispute resolution procedure; specifications of the services are contracted, if any, and how costs are to be calculated; billing procedures; how each legal, testing, and reporting requirement will be met; ownership of property belonging to the one that paid the cost or contributing the item; contract amendment procedures; contract approval procedures; contract renewal and termination procedures; duration of the contract; cross indemnification; application of laws, rules and regulations; binding effect; severability; assurances; and signatures of boards with legal power to authorize the terms of the contract. Any contract developed under this subsection shall be submitted to the Iowa Department of Education for review and approval by the Director of the Department of Education prior to enactment. A contract that fails to comply with any of the requirements of this chapter is void.

f. Children residing in the private facility operated by the private entity who require treatment or security throughout the day shall have classrooms made available at the site of the private facility at no cost to the school district, or area education agency in the case of juvenile homes, providing the instructional program or instructional supervision. The classroom must meet the requirements for educational space for children in Iowa Code, rules, or state fire marshal regulations.

g. Nothing included in the rules of this subsection shall be interpreted to regulate religious education curricula at the private entity.

281---35.5(282) Display of notices; fees.

35.5(1) A private entity operating a private facility under this chapter shall display prominently in all of its major publications and on its internet web site a notice accurately describing the educational program and educational services provided by the private entity and who is providing it.

35.5(2) The private entity operating a private facility shall include in any promotional, advertising, or marketing materials available by print, broadcast, or via the internet or any other means, all fees charged by the private entity for the educational services offered or provided and its refund policy for the return of refundable portions of any fees. This paragraph shall not apply to sponsorship by a private entity of public radio or public television broadcasts.

35.5(3) If the educational programs are provided by or through the public school district of location all fees related to educational programs and services shall be authorized by the Iowa code and shall be the same fees as charged to other enrolled students. The public school district cannot charge a higher fee to nonresident students than resident students.

281---35.6(282) Provision of appropriate educational services.

35.6(1) Private entities shall fully cooperate with the area education agency and school district in which the facility is located to fulfill the area education agency's responsibilities for child find under Iowa administrative code chapter 281—41(256B,34CFR300). Children shall be made available for evaluation and provision of services for which the child is eligible.

35.6(2) If the child does not require treatment or security by the private entity in such a time or manner as to be required to remain on the campus of the private facility, children with individual education plans shall be provided special education instruction and related services with other non-disabled children within the least restrictive environment to the maximum extent appropriate.

35.6(3) The area education agency where the child is living, the school district of residence, and other appropriate public or private agencies or private individuals involved with the care or placement of the child shall cooperate with the school district in which the private facility is located in sharing educational information, textbooks, curriculum, assignments, and materials in order to plan and to provide for the appropriate education of the child living in a private facility and to ensure academic credit is granted to the child for instructional time earned upon discharge from the private residential facility.

35.6(4) A private facility that houses eligible children who are 4-years-old by September 15 of the school year shall notify the parents or legal guardians of these eligible children about the opportunities to access quality preschool programs. Children whose parents are Iowa residents may access the statewide voluntary preschool program under Iowa administrative code chapter 281—16(256C) at no cost to the parents, and transportation will be provided by the public school district of attendance from its statewide voluntary preschool programs funding. Children whose parents are not Iowa residents may access the statewide voluntary preschool programs, if space is available, through a tuition and transportation agreement with the enrolling public school district.

281---35.7(282) Reporting. A private entity shall comply with requests by the Iowa Department of Education for basic educational and financial information.