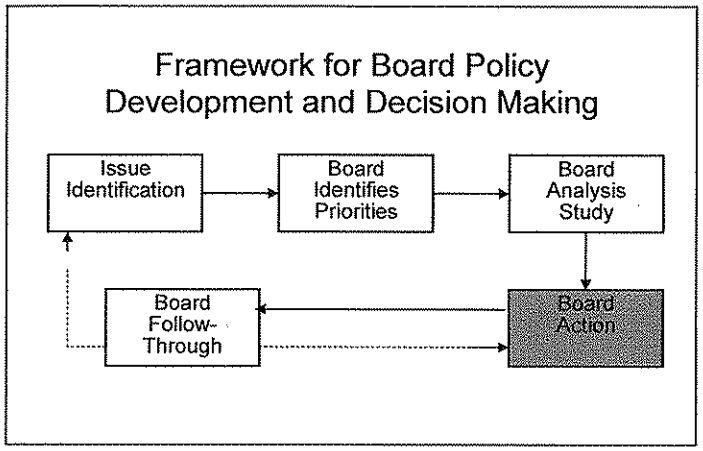
Iowa State Board of Education

Executive Summary

January 23, 2014



Agenda Item: Rules: Chapter 21 – Community Colleges (Operating While Intoxicated) (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.

Presenter: Mike Cormack, Policy Liaison
Division of Policy and Communications

Attachments: 1

Recommendation: It is recommended that the State Board give public notice of its intent to amend 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, regulation on out-of- state coursework 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.

EDUCATION DEPARTMENT [281]

Notice of Intended Action

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend 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, further regulation of out-of-state classes and other related program modifications.

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

Interested individuals may make written comments on the proposed amendments on or before March 11, 2014, at 4:30 p.m. Comments on the proposed amendments should be directed to Mike Cormack, Policy Liaison, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319; by telephone at 515-281-3399; or by Email at mike.cormack@iowa.gov.

A public hearing will be held on March11, 2014, from 3:00 to 4:00 p.m., at 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 contact and advise the Department of Education of their specific needs by calling (515)281-5295.

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

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 proposed.

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

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

281—21.31(321J) Course.

ITEM 2. Amend rule **281—21.31(1-5)** as follows:

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 approved programs in the state and publish this listing on the Department's website.

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 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 at least eight (8) contact hours in length.

c. The course is delivered in a classroom setting~~,~~ and not online.

21.31(4) Enrollment in the course shall 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 person under the age of 18 who is required to attend the courses for violation of Iowa Code section 321J.2 or 321J.17 shall attend a course offered by a substance abuse treatment program licensed under Iowa Code chapter 125.

21.31(5) ~~Any~~An instructional course for drinking drivers 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 (2) day period. The program may not be offered in more than four (4) hour blocks without a minimum of a 30 minute break being given between sessions. Each student in the class shall receive their own workbook and workbooks may not be reused. The course shall be taught by an instructor certified by the curriculum provider to teach the course. The 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. 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 the offender to combine the required course with a program that incorporates the jail time. Reasonable fees may be accessed for costs associated with lodging, meals, and security.

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)(1-2)** 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. Amend rule **281---21.34(321J)** as follows:

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 drinking driver education program. Membership on this committee shall include representatives from agencies currently offering the drinking driver program and may include other stakeholders.

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.