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 97, "Supplementary Weighting," Iowa Administrative Code.

2014 Iowa Acts, House File 2271, related to supplementary weighting for shared operational functions of school districts, amends Iowa Code sections 257.11(7)"a"(1) and 257.11(7)"c" and "d." In addition, 2014 Iowa Acts, Senate File 2056, related to whole-grade sharing incentives for school districts, amends Iowa Code sections 257.3(2)"d," 257.11(2)"c," and 257.11A and repeals section 257.11(5). The new operational sharing law, with an immediate enactment clause, makes substantial changes to operational sharing provisions in Iowa. In operational sharing, districts share personnel in listed positions under the law and receive additional state payment for doing so. With these new changes in the law, the current administrative rules are no longer accurate and need to be updated.

In addition, whole-grade sharing incentives have also been changed by other legislation with the same sunset and timing requirements that impact operational sharing. Changes to those rules are also contained herein.

The Department has determined that these amendments will not necessitate additional annual expenditures exceeding $100,000 or combined expenditures exceeding $500,000 within five years by all affected persons, including the agency. Therefore, no fiscal impact statement accompanies this rule making.

The Department has determined that these amendments will have no impact on small business within the meaning of Iowa Code section 17A.4A.

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

Notice of Intended Action was published in the June 11, 2014, Iowa Administrative Bulletin as **ARC 1499C**. Public comments were allowed until 4:30 p.m. on July 1, 2014. A public hearing was held on that date. No one attended the public hearing. No written comments were received regarding these amendments. These amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code sections 257.11(7)"a"(1) and 257.11(7)"c" and "d" as amended by 2014 Iowa Acts, House File 2271; Iowa Code sections 257.3(2)"d," 257.11(2)"c," and 257.11A as amended by 2014 Iowa Acts, Senate File 2056; and 2014 Iowa Acts, Senate File 2056, section 3.

The following amendments are adopted.

ITEM 1. Amend the following definitions in rule **281—97.1(257)**:

"Fraction of a school year at the secondary level" shall mean the product of the ~~class periods~~ minutes per day of class times the number of days per year the class meets divided by the product of the total number of class periods in a school day times the total number of days in a school year. All ~~class periods~~ minutes available in a normal day shall be used in the calculation.

"Political subdivision" shall mean a political subdivision in the state of Iowa and shall include a city, a township, a county, a public school district, a community college, an area education agency, or an institution governed by the state board of regents (~~Malcolm Price Laboratory School, Iowa Braille and Sight Saving School,~~ Iowa School for the Deaf, Iowa State University, University of Iowa, and University of Northern Iowa).

"Supplant" shall mean the community college's ~~replacing the identical course that was offered by the school district in the preceding year or the second preceding year,~~ offering a course that consists of substantially the same concepts and skills as the content of a course provided by the school district or the community college's offering a course that is required by the school district in order to meet the minimum accreditation standards in Iowa Code section 256.11. If a student is unable to earn credit in both courses, then the two courses would be deemed similar enough in content and skills to be defined as supplanting.

ITEM 2. Amend rule 281—97.5(257) as follows:

281—97.5(257) Supplementary weighting plan for whole-grade sharing.

97.5(1) *Whole-grade sharing.* A school district which participates in a whole-grade sharing arrangement executed pursuant to Iowa Code sections 282.10 to 282.12 and which has adopted a board resolution to study dissolution or has adopted a board resolution jointly with all other affected boards to study reorganization to take effect on or before July 1, ~~2014~~ 2019, is eligible to assign a weighting of one-tenth of the fraction of the school year during which resident pupils attend classes pursuant to subrule 97.2(1), paragraph *"a," "b,"* or *"c."* A school district participating in a whole-grade sharing arrangement shall be eligible for supplementary weighting under this subrule for a maximum of three years. Receipt of supplementary weighting for the second year and for the third year shall be conditioned upon submission of information resulting from the study to the school budget review committee indicating progress or continued progress toward the objective of dissolution or reorganization on or before July 1, ~~2014~~ 2019.

97.5(2) No change.

97.5(3) *Consecutive years.* A school district that is eligible to add a supplementary weighting for resident students attending classes under a whole-grade sharing arrangement pursuant to subrule 97.5(1) 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, ~~2013~~ 2018.

97.5(4) and **97.5(5)** No change.

97.5(6) *Filing progress reports.* Each school district that assigned a supplementary weighting to resident students attending class in a whole-grade sharing arrangement and that intends to assign a supplementary weighting to resident students attending class in a whole-grade sharing arrangement in the following year shall file a report of progress toward reorganization with the school budget review committee, on forms developed by the department of education, no later than August 1 preceding October 1 on which date the district intends to request supplementary weighting for whole-grade sharing.

a. No change.

b. The report must indicate progress toward a reorganization or dissolution to occur on or before July 1, ~~2014~~ 2019. Indicators of progress may include, but are not limited to:

(1) to (12) No change.

c. to *e.* No change.

ITEM 3. Amend rule 281—97.7(257) as follows:

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

97.7(1) *Eligibility.* ~~Except for students listed under subrule 97.2(6), a resident student is eligible for supplementary~~ Supplementary weighting ~~if the student is eligible to be counted as a resident student for certified enrollment and~~ is available if all of the

following criteria are met:

a. The district shares a discrete operational function with one or more other political subdivisions pursuant to a written contract.

b. The district shares ~~the~~ an operational function for at least 20 percent of the contract time period during the fiscal year that is customary for a full-time employee in the operational function ~~being shared, and at least one of the sharing partners also shares the operational function~~ for at least 20 percent of the contract time period during the fiscal year. The 20 percent is measured each fiscal year and for each discrete operational function.

c. Personnel shared as part of ~~the~~ an operational function are employees of one of the sharing partners but are not employees of more than one of the sharing partners.

d. If the district shares an operational function with more than one political subdivision, the sharing arrangement is listed only once for purposes of supplementary weighting.

e. If the district shares more than one individual in the same operational function, that operational function shall be listed only once for the purposes of supplementary weighting.

f. No individual personnel shall be included for operational function sharing more than once for supplementary weighting in the same fiscal year.

g. If more than one sharing arrangement is implemented in any one operational function area and the services shared are substantially similar as determined by the department of education, only the sharing arrangement implemented first will be eligible for supplementary weighting.

h. The operational function areas shared include one or more of the areas listed in subrule 97.7(2).

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, facility operation or maintenance management, ~~social worker, school nurse,~~ curriculum director or school counselor~~, or school librarian~~. "Operational function sharing" does not mean sharing of clerical personnel 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. Superintendent management.

(1) Shared personnel must perform the services of a superintendent, in the case of a school district, or chief administrator, in the case of an area education agency, or executive administrator, in the case of other political subdivisions~~, for each of the sharing partners~~. An individual performing the function of a superintendent or chief administrator must be properly licensed for that position.

(2) If the services of a superintendent are shared in any of the five eligible years, the district may not also share an assistant superintendent in any year for purposes of supplementary weighting.

(3) Clerical or other support services personnel in the superintendent function area or executive administrator function area shall not be considered shared superintendent management under this subrule.

(4) Shared superintendent services or executive administrator 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.

b. Business management.

(1) Shared personnel must perform the services of managing the business operations ~~for each of the sharing partners~~. Managing business operations would include personnel performing the duties of a business manager or school business official, or personnel performing the duties listed in the Iowa Code for a board secretary including, but not limited to, board secretary duties listed in Iowa Code chapter 291, or personnel performing the duties listed in the Iowa Code for a board treasurer including, but not limited to, board treasurer duties listed in Iowa Code chapter 291~~, in each of the sharing partners~~.

(2) Services of clerical personnel, school administration managers, superintendents, principals, teachers, board officers except those listed in subparagraph (1), or any other nonbusiness administration personnel shall not be considered shared business management under this subrule.

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

c. Human resources management.

(1) Shared personnel must perform the services of managing human resources ~~for each of the sharing partners~~.

(2) Services of clerical personnel, superintendents, principals, ~~school administration managers, school business officials, business managers,~~ curriculum directors, teachers, or

board officers shall not be considered shared human resources management under this subrule.

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

d. Student transportation management.

(1) Shared personnel shall include transportation directors or supervisors. Shared personnel must perform services related to transportation ~~for each of the sharing partners, but may perform different transportation services for each of the sharing partners~~.

(2) Services of school business officials, business managers, school administration managers, clerical or paraprofessional personnel, school bus mechanics, and school bus drivers shall not be considered shared student transportation management under this subrule.

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

e. Facility operations and maintenance.

(1) Shared personnel shall include facility managers and supervisors of buildings or grounds. Shared personnel must perform services related to facility operations and maintenance ~~for each of the sharing partners, but may perform different facility operations and maintenance services for each of the sharing partners~~.

(2) Services of school business officials, business managers, school administration managers, clerical personnel or custodians shall not be considered shared facility

operations and maintenance management for supplementary weighting under this subrule.

(3) Shared facility operations and maintenance management shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

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~~ Technology directors and 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.*~~ *g.* *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, social workers, 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, 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 operational function sharing is included for supplementary weighting~~.

97.7(4) *Contiguous districts.* School districts that share operational functions with other school districts are not required to be contiguous school districts. If the districts are not contiguous, the district(s) separating those districts is not required to be a party to the operational sharing arrangement.

97.7(5) to **97.7(9)** No change.

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.~~ A school district that shares an operational function in the area of superintendent management shall be assigned a supplementary weighting of eight pupils for the function. A school district that shares an operational function in the area of business management, human resources management, transportation management, or operation and maintenance management shall be assigned

a supplementary weighting of five pupils for the function. A school district that shares the operational functions of a curriculum director or a school counselor shall be assigned a supplementary weighting of three pupils for the function. 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. The department shall reserve the authority to determine if an operational sharing arrangement constitutes a discrete arrangement~~, new arrangement,~~ or ~~continuing~~ qualifying operational sharing arrangement if the circumstances have not been clearly described in the Iowa Code or the Iowa Administrative Code.

97.7(11) *Sharing arrangement duties.* A school district may receive the additional weighting for the sharing of services of an individual with a political subdivision even if the type of operational function performed by the individual for the school district and the type of operational function performed by the individual for the political subdivision are not the same operational function, so long as both operational functions are eligible for weighting. In such case, the school district shall be assigned the additional weighting for the type of operational function that the individual performs for the school district, and the school district shall not receive additional weighting for any other function performed by the individual.

~~**97.7(11)**~~ **97.7(12)** *Maximum weighting.* The maximum amount of additional weighting for which a school district participating in operational function sharing shall be eligible in a budget year is an amount corresponding to ~~40~~ 21 full-time equivalent pupils. The maximum additional weighting applies to the total of all operational function sharing rather than to each discrete operational function. Each eligible discrete operational

function sharing arrangement shall be included in the total of all operational function sharing. If the district's total of all discrete operational function sharing exceeds 21 full-time equivalent pupils, the department shall make a reduction in the total rather than separately adjusting the discrete operational function sharing that made up the total.

~~**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. The minimum additional weighting applies to the total of all operational function sharing rather than each discrete operational function.~~

~~**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 certified annual report shall be filed no later than September 15 preceding the October 1 on which the 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) *Uses of funding.* Additional funds provided through supplementary

weighting for operational function sharing shall be used to increase student opportunities.

~~**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:~~

~~(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 prior fiscal year compared to the 2012-2013 fiscal year. The 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 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.~~

~~(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.~~

~~*c.* 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(15)**~~ **97.7(14)** *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,~~ pupil counts for operational function sharing and maximum weightings.

a. ~~In lieu of minimum weightings, an~~ An area education agency shall be eligible for a minimum amount of additional funding of ~~$50,000~~ $30,000 in a budget year for the total of all operational function sharing arrangements.

b. ~~In lieu of maximum weightings, an~~ An area education agency shall be eligible for a maximum amount of additional funding of $200,000 in a budget year for the total of all operational function sharing arrangements.

c. ~~In lieu of supplementary weighting of students, the~~ 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.

ITEM 4. Amend **281—Chapter 97**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 257.6, 257.11 as amended by 2014 Iowa Acts, Senate File 2056 and House File 2271, and 257.12~~,~~ and Iowa Code chapter 261E~~, and 2007 Iowa Acts, Senate File 588, section 6~~.