# EDUCATION DEPARTMENT [281]

**Notice of Intended Action**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby gives Notice of Intended Action to amend Chapter 62, "State Standards for Progression in Reading," Iowa Administrative Code.

Items 1 through 9 of the proposed rules replaces the term "substantially deficient in reading" with "persistently at risk in reading" and defines that term, consistent with amendments to Iowa Code section 279.68, as well as making conforming grammar and word choice changes. Item 1 also includes a requirement to consider results on an annual standards-based assessment. Item 3 also describes changes to services provided to students who are persistently at risk in reading, as required by recent legislation, as well as defining when a student is "at risk in reading." Item 4 also makes conforming changes to the rule on intensive summer literacy programs, including the one year delay in their required date. Item 5 also defines dyslexia and specifically indicates that services shall formally address dyslexia, pursuant to legislative action, as well as codifying department guidance on monitoring and services for students who are at risk in reading.

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

Interested persons may submit comments orally or in writing by November 1, 2016, at 4:30 p.m. Comments on the proposed amendments should be directed to Phil Wise, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-4835; e-mail phil.wise@iowa.gov; or fax (515)242-5988.

A public hearing will be held on November 1, 2016, 2:00 to 3:00 p.m. in the ICN 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.

These amendments are intended to implement Iowa Code sections 256.7(31) and 279.68, as amended by 2014 Iowa Acts, chapter 1077 and by 2016 Iowa Acts chapter 1123.

The following amendments are proposed.

**Item 1. Amend rule 62.2(256,279), subrules (3) and (4), as follows**

**281—62.2(256,279) Assessment of reading proficiency.** All school districts shall assess reading proficiency of all students, as required by this rule.

**62.2(3)** *Progress-monitoring instruments.* For students identified as being persistently at risk in ~~having a substantial deficiency in~~ reading, as well as students who are at risk of a substantial deficiency in reading, a school district shall monitor the students' progress in reading with instruments that meet the standards in subrule 62.2(5), in at least a frequency required by the department.

**62.2(4)** *Statewide or locally determined assessments.* Assessments may be locally determined or statewide, including an annual, standard-based assessment, provided that all assessments for purposes of implementing this chapter meet the standards described in subrule 62.2(5).

**Item 2. Amend rule 281—62.3(256,279), subrules (1) and (4), as follows:**

**281—62.3(256,279) Tools for evaluating and reevaluating reading proficiency.** The

department identifies the following attributes of tools that may be used in evaluating and reevaluating reading proficiency.

**62.3(1)** *Locally determined or statewide assessments.* In evaluating and reevaluating students who are or may be ~~deficient~~ at risk or persistently at risk in reading, school districts shall use assessments that meet the standards referenced in subrule 62.2(5).

**62.3(4)** *Teacher observation.* A student may initially be identified as being persistently at risk in ~~having a substantial deficiency in~~ reading proficiency based on teacher observation. A teacher observation under this subrule shall be based on department-approved observation criteria. Teacher observation shall not be used to determine that a student continues to have a substantial deficiency in reading.

**Item 3. Amend rule 281—62.4(256,279) as follows:**

**281—62.4(256,279) Identification of a student as ~~having a substantial deficiency in~~ being persistently at risk in reading.** A school district shall follow this rule in determining whether a student in kindergarten through grade three ~~has a substantial deficiency in~~ is persistently at risk in reading.

**62.4(1)** *Definition of "~~substantial deficiency in~~ persistently at risk in reading."* A school district shall determine that a student ~~has a "substantial deficiency in reading"~~ is "persistently at risk in reading" if, based on the requirements of this chapter, the student~~'s reading is below a standard set on an approved assessment pursuant to subrule 62.2(6) and the student's progress on a measure that meets the requirements of this chapter is minimal~~ has not met the grade-level benchmarks on two consecutive screening assessments administered pursuant to this chapter. A student is "at risk in reading" if the student did not meet the grade-level benchmark for one of the two most recent screening assessments

administered pursuant to this chapter.

**62.4(2)** *Determination of a* ~~*substantial deficiency*~~ persistent risk *in reading.*

*a.* In initially determining whether a student ~~has a substantial deficiency~~ is persistently at risk in reading as defined in subrule 62.4(1), the school district shall consider assessments referred to in rule 281—62.2(256,279) and subrule 62.3(1) or teacher observations that meet the criteria referenced in subrule 62.3(4).

*b.* In determining whether a student continues to ~~have a substantial deficiency~~ be persistently at risk in reading, a school district shall consider assessments referred to in rule 281—62.2(256,279) and subrule 62.3(1), with specific attention given to progress-monitoring results under subrule 62.2(3).

**62.4(3)** *Services offered to all students* ~~*with a substantial deficiency*~~ *who are persistently at risk in reading.* A school district shall provide intensive reading instruction to any student who ~~exhibits a substantial deficiency~~ is persistently at risk in reading, as defined in subrule 62.4(1). A school district shall continue to provide the student with intensive reading instruction until the student is reading ~~deficiency is remediated~~ at grade level, as determined by the student's consistently proficient performance on valid and reliable measures of reading ability that meet the requirements of rule 281—62.2(256,279). All services provided under this subrule shall comply with rule 281—62.6(256,279).

**62.4(4)** *Notice to parents.* The parent or guardian of any student in kindergarten through grade three who is ~~identified as having a substantial deficiency~~ persistently at risk in reading, as defined in subrule 62.4(1), shall be notified regularly in writing of the following:

*a.* ~~That the child has been identified as having a substantial deficiency in reading;~~

~~*b.*~~ A description of the services currently provided to the child;

~~*c*~~*b*. A description of the proposed supplemental instructional services and supports that the school district will provide to the child that are designed to remediate the identified area or areas in which the student is persistently at risk in ~~of~~ reading ~~deficiency~~; ~~and~~

~~*d*~~*c*. Strategies for parents and guardians to use in helping the ~~child succeed in reading proficiency~~ student read proficiently, including but not limited to the promotion of parent-guided home reading~~.~~; and

*d.* Regular updates regarding the student's progress toward reaching or exceeding the targeted level of reading proficiency.

**Item 4. Amend rule 281—62.5(256,279), subrules (1), (3), and (5), as follows:**

**281—62.5(256,279) Intensive summer reading program.**

**62.5(1)** *General.* Beginning May 1, ~~2017~~2018, unless the school district is granted a waiver pursuant to subrule 62.5(5), if a student~~'s reading deficiency is not remediated~~ is persistently at risk by the end of grade three~~, as demonstrated by scores on a locally determined or statewide assessment as provided in subrule 62.4(2)~~ and is not proficient in reading on a state-wide assessment of reading administered pursuant to Iowa code section 256.7, subsection 21, the school district shall notify the student's parent or guardian that the parent or guardian may enroll the student in an intensive summer reading program offered in accordance with this rule.

**62.5(3)** *Student exempt from or completes program and is not reading proficiently.* If the student is exempt from participating in an intensive summer reading program for good cause pursuant to rule 281—62.8(256,279) or completes the intensive summer reading

program but is not reading proficiently upon completion of the program as determined under subrule 62.4(2), the student may be promoted to grade four, but the school district shall continue to provide the student with intensive reading instruction pursuant to subrule 62.4(3) until the student is reading proficiently, ~~in reading~~ as demonstrated by scores on locally determined or statewide assessments pursuant to subrule 62.4(2).

**62.5(5)** *Waiver of intensive summer reading program.* The department may grant a school district a waiver of the requirement to offer an intensive summer reading program for the summer of ~~2017~~2018 only. A school district must demonstrate good cause and that the requested waiver is in keeping with the objectives of Iowa Code section 279.68 and these rules.

**Item 5. Amend rule 281—62.6(256,279) as follows:**

**281—62.6(256,279) Successful progression for early readers.** Each school district shall provide the following.

**62.6(1)** *Intensive instructional services.* A school district shall provide students who are ~~identified as having a substantial deficiency~~ persistently at risk in reading under subrule 62.4(2) with intensive instructional services and supports, free of charge, to remediate the ~~identified~~ areas ~~of reading deficiency~~ in which students are not proficient in reading. The intensive instructional services are further described in subrule 62.6(2).

*a.* Intensive instructional services under this subrule shall include a minimum of 90 minutes daily of scientific research-based reading instruction, which shall be core instruction.

*b.* In addition to the instruction described in paragraph 62.6(1)*"a,"* a school district shall prescribe other strategies, which may include but are not limited to the following:

(1) Small group instruction.

(2) Reduced teacher-student ratios.

(3) More frequent progress monitoring.

(4) Tutoring or mentoring.

(5) Extended school day, week, or year.

(6) Summer reading programs.

**62.6(2)** *Reading enhancement and acceleration development initiative.* The intensive instructional services described in subrule 62.6(1) shall be provided to all students in kindergarten through grade three who are identified as ~~having a substantial deficiency~~ being persistently at risk in reading, as determined pursuant to subrule 62.4(2). The services shall meet the following requirements:

*a.* A school district shall provide intensive instructional services during regular school hours, in addition to the regular reading instruction.

*b.* A school district shall provide a reading curriculum that meets the standards of subrule 62.6(3).

**62.6(3)** *Reading curriculum for students ~~with substantial deficiencies~~ who are persistently at risk in reading.* A curriculum that does not meet the standards of this subrule shall not be used to implement this chapter. To implement this subrule, a school district shall provide a curriculum that meets the following guidelines and specifications:

*a.* Assists students assessed as ~~exhibiting a substantial deficiency~~ persistently at risk in reading to develop the skills to read at grade level. Assistance shall include but not be limited to strategies that formally address dyslexia, when appropriate. For purposes of this paragraph, "dyslexia" means a specific and significant impairment in the development of

reading, including but not limited to phonemic awareness, phonics, fluency, vocabulary, and comprehension, that is not solely accounted for by intellectual disability, sensory disability or impairment, or lack of appropriate instruction.

*b.* Provides skill development in phonemic awareness, phonics, fluency, vocabulary, and comprehension.

*c.* Is supported by scientifically based research in reading.

*d.* Is implemented by certified instructional staff with appropriate training and professional development. Such training and professional development shall meet the requirements of rule 281—83.6(284).

*e.* Is implemented by certified instructional staff with fidelity, which shall meet such standards for fidelity of implementation that the department may adopt.

*f.* Includes a scientifically based and reliable assessment, which shall meet the requirements of rule 281—62.1(256,279).

*g.* Provides initial and ongoing analysis of each student's reading progress, which shall meet the requirements of rule 281—62.1(256,279), with notice provided to parents pursuant to subrule 62.6(4).

*h.* Is implemented during regular school hours.

*i.* Provides a curriculum in core academic subjects to assist the student in maintaining or meeting proficiency levels for the appropriate grade in all academic subjects.

**62.6(4)** *Parent notice, involvement and support.* At a minimum and in addition to other requirements of this chapter, school districts shall provide the following to all parents or guardians of students who ~~have been identified as having a substantial deficiency~~ are persistently at risk in reading:

*a.* At regular intervals, a school district shall apprise the parent or guardian of academic and other progress being made by the student and give the parent or guardian other useful information.

*b.* In addition to required reading enhancement and acceleration strategies provided to students, a school district shall provide parents or guardians of students who are ~~identified as having a substantial deficiency~~ persistently at risk in reading under subrule 62.4(2) with a plan outlined in a parental contract, including participation in regular parent-guided home reading.

**62.6(5)** *Report to the department.* Each school district shall report to the department the specific intensive reading interventions and supports implemented by the school district pursuant to this chapter. The department shall annually prescribe the components of required or requested reports.

**62.6(6)** *Rule of construction: students who are at risk in reading*. Subject to paragraphs "a" and "b" of this subrule, school districts may voluntarily provide additional services and interventions to students who are "at risk in reading" as defined by subrule 62.4(1).

*a.* School districts must provide progress monitoring to students who are "at risk in reading."

*b.* If a student, who was previously "persistently at risk" and is currently identified as "at risk", falls below grade-level benchmark on a locally determined number of progress monitoring probes, the student must be provided services under this rule until the next screening assessment administered pursuant to this chapter.

**Item 6. Amend 281—62.7(256,279), subrules (1) and (5), as follows:**

**281—62.7(256,279) Promotion to grade four.**

**62.7(1)** *General.* In determining whether to promote a student in grade three to grade four, a school district shall place significant weight on any area in which the student is persistently at risk in reading ~~deficiency~~, as identified pursuant to subrule 62.4(2) that is not yet remediated.

**62.7(5)** *Plan of action required.* A decision to retain a student in grade three shall be made only after the formulation of a specific plan of action to ~~remedy~~ address the student's reading ~~deficiency~~ skills until the student is reading at grade level.

**Item 7. Amend 281—62.8(256,279) as follows:**

**281—62.8(256,279) Good-cause exemption.** A school district shall exempt students from the retention requirements of rule 281—62.7(256,279) and intensive summer reading program requirements of rule 281—62.5(256,279) for good cause.

**62.8(1)** *"Good cause" defined.* Good-cause exemptions shall be limited to the following:

*a.* Limited English proficient students who have had less than two years of instruction in an English language learners program.

*b.* Students requiring special education whose individualized education program indicates that participation in a locally determined or statewide assessment required by this chapter is not appropriate, consistent with the requirements of rules adopted by the state board of education for the administration of Iowa Code chapter 256B.

*c.* Students who demonstrate an acceptable level of performance on an alternative

performance measure approved pursuant to subrule 62.3(2).

*d.* Students who demonstrate mastery through a student portfolio under alternative performance measures approved pursuant to subrule 62.3(3).

*e.* Students who have received intensive remediation in reading for two or more years but who are still ~~demonstrate a deficiency in~~ persistently at risk in reading and who were previously retained in kindergarten, grade one, grade two, or grade three. Intensive reading instruction for students so promoted must include an altered instructional day that includes specialized diagnostic information and specific reading strategies for each student. The school district shall assist attendance centers and teachers to implement reading strategies that research has shown to be successful in improving reading among low-performing readers.

**62.8(2)** *Additional documentation required.* For students described in subrule 62.8(1), paragraphs "c" and "d", ~~Requests~~ requests for good-cause exemptions from the retention requirement of subrule 62.5(2) and rule 281—62.7(256,279) ~~for a student described in paragraphs 62.8(1)*"c"* and *"d"*~~ shall include documentation from the student's teacher to the school principal that indicates that the promotion of the student is appropriate and is based upon the student's academic record. Such documentation shall include but not be limited to the individualized education program, if applicable, report card, or student portfolio.

**Item 8. Amend 281—62.9(256,279), subrules (1) and (3), as follows:**

**281—62.9(256,279) Ensuring continuous improvement in reading proficiency.**

**62.9(1)** *Reading proficiency addressed in comprehensive school improvement plan.* To ensure all children are reading proficiently by the end of third grade, each school district

shall address reading proficiency as part of its comprehensive school improvement plan, drawing upon information about ~~children~~ students from assessments and reassessment conducted pursuant to this chapter and the prevalence of ~~deficiencies~~ areas in which students are persistently at risk in reading, identified by classroom, elementary school, and other student characteristics.

**62.9(3)** *Attendance centers with lower levels of reading proficiency.* If more than 15 percent of an attendance center's students are not ~~proficient in~~ reading proficiently by the end of third grade, the comprehensive school improvement plan shall include strategies to reduce that percentage, including school and community strategies to raise the percentage of students who are ~~proficient in~~ reading at grade level. Strategies adopted under this subrule shall meet the requirements of this chapter.

**Item 9. Amend 281—62.10(256,279), subrule (1), as follows:**

**281—62.10(256,279) Miscellaneous provisions.**

**62.10(1)** *Services beyond third grade.* Students who are identified as ~~having a substantial deficiency~~ persistently at risk in reading ~~that is not remediated~~ at the end of third grade remain entitled to intensive reading instruction. Nothing in this chapter shall be construed to prevent a school district from offering scientific research-based instruction in reading to students above third grade. Nothing in this chapter shall be construed to prohibit a school district from determining a student above third grade is ~~as having a substantial deficiency~~ persistently at risk in reading or from providing services to a student so identified.

These rules are intended to implement Iowa Code sections 256.7(31) and 279.68, as amended by 2014 Iowa Acts, chapter 1077 and by 2016 Iowa Acts chapter 1123.