*State of Iowa*

# Iowa Administrative Code Supplement

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The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code section 17A.6. The Supplement contains replacement chapters to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement chapters incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement chapters may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(6); an effective date delay imposed by the ARRC pursuant to section 17A.4(7) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(8); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index or the Uniform Rules on Agency Procedure.

# INSTRUCTIONS

FOR UPDATING THE

# IOWA ADMINISTRATIVE CODE

Agency names and numbers in bold below correspond to the divider tabs in the IAC binders. New and replacement chapters included in this Supplement are listed below. Carefully remove and insert chapters accordingly.

Editor's telephone (515)281-3355 or (515)242-6873

## Education Department[281]

Replace Analysis
Replace Chapter 25

## Educational Examiners Board[282]

Replace Chapters 13 and 14

## College Student Aid Commission[283]

Replace Analysis
Replace Chapters 6 and 7
Replace Chapters 10 and 11 with Reserved Chapters 10 and 11
Remove Chapter 15 and Reserved Chapter 16
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## Racing and Gaming Commission[491]

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## Public Health Department[641]

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## Public Safety Department[661]

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Insert Chapter 506 and Reserved Chapters 507 to 549

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Replace Chapter 49

## Volunteer Service, Iowa Commission on[817]

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# EDUCATION DEPARTMENT[281]

Created by 1986 Iowa Acts, chapter 1245, section 1401.
Prior to 9/7/88, see Public Instruction Department[670]
(Replacement pages for 9/7/88 published in 9/21/88 IAC)

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# CHAPTER 25
# PATHWAYS FOR ACADEMIC CAREER AND EMPLOYMENT PROGRAM; GAP TUITION ASSISTANCE PROGRAM

## DIVISION I
## GENERAL PROVISIONS

**281—25.1(260H,260I) Scope.** The rules in this chapter implement the pathways for academic career and employment (PACE) program under 2011 Iowa Code Supplement chapter 260H and the gap tuition assistance program under 2011 Iowa Code Supplement chapter 260I.
[**ARC 0102C**, IAB 4/18/12, effective 5/23/12]

**281—25.2(260H,260I) Definitions.**

*"Department"* means the Iowa department of education.

*"Director"* means the director of the Iowa department of education.

*"Dislocated worker"* means an individual eligible for services and benefits under the federal Trade Adjustment Act of 2002, P.L. 107-210. An individual must meet both criteria 1 and 2, plus any one of criteria 3 through 8:

1. The individual is registered for the selective service, if applicable; and

2. The individual is a citizen or national of the United States, a lawfully admitted permanent resident alien, a lawfully admitted refugee or parolee or an individual authorized by the Attorney General to work in the United States.

3. The individual:

- Has been laid off or terminated, and
- Is eligible for or has exhausted entitlement to unemployment compensation, and
- Is unlikely to return to the individual's previous industry or occupation; or

4. The individual:

- Is in receipt of a notice of layoff or termination from employment, and
- Will be entitled to unemployment compensation at the time of layoff or termination, and
- Is unlikely to return to the individual's previous industry or occupation; or

5. The individual:

- Has been laid off or terminated, or has received a termination notice, and
- Has been employed for a duration of time to sufficiently demonstrate attachment to the workforce, and
- Is not eligible for unemployment compensation due to insufficient earnings, or has performed services for an employer not covered under the unemployment compensation law, and
- Is unlikely to return to the individual's previous industry or occupation; or

6. The individual has been laid off or terminated, or has received notice of layoff or termination, as a result of a permanent closure of or any substantial layoff at a plant, facility or enterprise; or

7. The individual was formerly self-employed and is unemployed from the individual's business; or

8. The individual:

- Is a displaced homemaker who has been providing unpaid services to family members in the home, and
- Has been dependent on the income of another family member, and is no longer supported by that income, and
- Is unemployed or underemployed, and
- Is experiencing difficulty in obtaining or upgrading employment.

*"Federal poverty level"* means the most recently revised poverty income guidelines published by the federal Department of Health and Human Services.

*"IWD"* means the Iowa workforce development department.

*"Low skilled"* means an adult individual who is basic skills deficient, has lower level digital literacy skills, has an education below a high school diploma, or has a low level of educational attainment

that inhibits the individual's ability to compete for skilled occupations that provide opportunity for a self-sufficient wage.

*"State board"* means the Iowa state board of education.

*"Underemployed"* means an adult individual who is working less than 30 hours per week, or who is employed any number of hours per week in a job that is substantially below the individual's skill level and that does not lead to self-sufficiency.

*"Unemployed"* means an adult individual who is involuntarily unemployed and is actively engaged in seeking employment.

[**ARC 0102C**, IAB 4/18/12, effective 5/23/12]

**281—25.3** to **25.10** Reserved.

DIVISION II
PATHWAYS FOR ACADEMIC CAREER AND EMPLOYMENT (PACE) PROGRAM

**281—25.11(260H) Purpose.** The pathways for academic career and employment program (hereinafter referred to as PACE) is established to provide funding to community colleges for the development of projects that will lead to gainful, quality, in-state employment for members of target populations by providing them with both effective academic and employment training to ensure gainful employment and customized support services.

[**ARC 0102C**, IAB 4/18/12, effective 5/23/12; **ARC 1875C**, IAB 2/18/15, effective 3/25/15]

**281—25.12(260H) Target populations.** Individuals included in target populations are those individuals who meet one or more of the following:

1. Are deemed by definition to be low skilled.
2. Earn incomes at or below 250 percent of the federal poverty level.
3. Are unemployed.
4. Are underemployed.
5. Are dislocated workers.

[**ARC 0102C**, IAB 4/18/12, effective 5/23/12; **ARC 1875C**, IAB 2/18/15, effective 3/25/15]

**281—25.13(260H) Eligibility criteria for projects.** Projects eligible for funding for PACE shall be projects that further the ability of members of target populations to secure gainful, quality employment; that further partnerships linking community colleges to industry and nonprofit organizations; and that further the following program outcomes:

**25.13(1)** Enabling members of the target populations to:

*a.* Acquire and demonstrate competency in basic skills.

*b.* Acquire and demonstrate competency in a specified technical field.

*c.* Complete a specified level of postsecondary education.

*d.* Earn a national career readiness certificate.

*e.* Obtain employer-validated credentials.

*f.* Secure gainful employment in high-quality, local jobs.

**25.13(2)** Meeting economic and employment goals including but not limited to:

*a.* Economic and workforce development requirements in each region served by the community colleges as defined by regional advisory boards established pursuant to Iowa Code section 84A.4.

*b.* Needs of industry partners in areas including but not limited to the fields of information technology, health care, advanced manufacturing, transportation and logistics, and any other industry designated as in-demand by a regional advisory board established pursuant to Iowa Code section 84A.4.

[**ARC 0102C**, IAB 4/18/12, effective 5/23/12]

**281—25.14(260H) Program component requirements.** Program components for a PACE project implemented at a community college shall:

**25.14(1)** Include measurable and effective recruitment, assessment, and referral activities designed for the target populations.

**25.14(2)** Integrate basic skills and work-readiness training with occupational skills training.

**25.14(3)** Combine customized supportive and case management services with training services to help participants overcome barriers to employment.

**25.14(4)** Provide training services at times, locations, and through multiple, flexible modalities that are easily understood and readily accessible to the target populations. Such modalities shall support open entry, individualized learning, and flexible scheduling, and may include online remediation, learning lab and cohort learning communities, tutoring, and modularization.

[**ARC 0102C**, IAB 4/18/12, effective 5/23/12]

**281—25.15(260H) Pipeline program.** Each community college receiving funding for PACE shall develop a pipeline program in order to better serve the academic, training, and employment needs of the target populations. A pipeline program shall have the following goals:

**25.15(1)** To strengthen partnerships with community-based organizations and industry representatives.

**25.15(2)** To improve and simplify the identification, recruitment, and assessment of qualified participants.

**25.15(3)** To conduct and manage an outreach, recruitment, and intake process, along with accompanying support services, reflecting sensitivity to the time and financial constraints and remediation needs of the target populations.

**25.15(4)** To conduct orientations for qualified participants to describe regional labor market opportunities, employer partners, and program requirements and expectations.

**25.15(5)** To describe the concepts of the project implemented with funds from PACE and the embedded educational and support resources available through such project.

**25.15(6)** To outline the basic skills participants will learn and describe the credentials participants will earn.

**25.15(7)** To describe success milestones and ways in which temporal and instructional barriers have been minimized or eliminated.

**25.15(8)** To review how individualized and customized service strategies for participants will be developed and provided.

[**ARC 0102C**, IAB 4/18/12, effective 5/23/12]

**281—25.16(260H) Career pathways and bridge curriculum development program.** Each community college receiving funding for PACE shall develop a career pathway and bridge curriculum development program in order to better serve the academic, training, and employment needs of the target populations. A career pathways and bridge curriculum development program shall have the following goals:

**25.16(1)** The articulation of courses and modules, the mapping of programs within career pathways, and the establishment of bridges between credit and noncredit programs.

**25.16(2)** The integration and contextualization of basic skills education and skills training. This process shall provide for seamless progressions between adult basic education and general education development programs and continuing education and credit certificate, diploma, and degree programs.

**25.16(3)** The development of career pathways that support the attainment of industry-recognized credentials, diplomas, and degrees.

[**ARC 0102C**, IAB 4/18/12, effective 5/23/12; **ARC 1875C**, IAB 2/18/15, effective 3/25/15]

**281—25.17(260H) Pathway navigators.**

**25.17(1)** A community college may use moneys for the PACE program to employ pathway navigators to assist students applying for or enrolled in eligible pathways for academic career and employment projects.

**25.17(2)** Pathway navigators shall provide services and support to aid students in selecting PACE projects that will result in gainful, quality, in-state employment and to ensure students are successful once enrolled in PACE projects. Services the pathway navigators may provide include but are not limited to the following:

*a.* Interviewing and selecting students for enrollment in PACE projects.

*b.* Assessing students' skills, interests, and previous academic and work experience for purposes of placement in PACE projects.

*c.* Working with students to develop academic and career plans and to adjust such plans as needed.

*d.* Assisting students in applying for and receiving resources for financial aid and other forms of tuition assistance.

*e.* Assisting students with the admissions process, remedial education, academic credit transfer, meeting assessment requirements, course registration, and other procedures necessary for successful completion of PACE projects.

*f.* Assisting in identifying and resolving obstacles to students' successful completion of PACE projects.

*g.* Connecting students with useful college resources or outside support services such as access to child care, transportation, and tutoring assistance, as needed.

*h.* Maintaining ongoing contact with students enrolled in PACE projects and ensuring students are making satisfactory progress toward the successful completion of projects.

*i.* Providing support to students transitioning from remedial education, short-term training, and classroom experience to employment.

*j.* Coordinating activities with community-based organizations that serve as key recruiters for PACE projects and assisting students throughout the recruitment process.

*k.* Coordinating adult basic education services.

[**ARC 1875C**, IAB 2/18/15, effective 3/25/15]

**281—25.18(260H) Regional industry sector partnerships.**

**25.18(1)** A community college may use moneys for the PACE program to provide staff and support for the development and implementation of regional industry sector partnerships within the region served by the community college.

**25.18(2)** Regional industry sector partnerships may include but are not limited to the following activities:

*a.* Bringing together representatives from industry sectors, government, education, local workforce boards, community-based organizations, labor, economic development organizations, and other stakeholders within the regional labor market to determine how PACE projects should address workforce skills gaps, occupational shortages, and wage gaps.

*b.* Integrating PACE projects and other existing supply-side strategies with workforce needs within the region served by the community college.

*c.* Developing PACE projects that focus on the workforce skills, from entry-level to advanced, required by industry sectors within the region served by the community college.

*d.* Structuring pathways so that instruction and learning of workforce skills are aligned with industry-recognized standards where such standards exist.

[**ARC 1875C**, IAB 2/18/15, effective 3/25/15]

**281—25.19** Reserved.

DIVISION III
GAP TUITION ASSISTANCE PROGRAM

**281—25.20(260I) Purpose.** A gap tuition assistance program is established to provide funding to community colleges for need-based tuition assistance to enable applicants to complete continuing education certificate training programs for in-demand occupations.

[**ARC 0102C**, IAB 4/18/12, effective 5/23/12]

**281—25.21(260I) Applicants for tuition assistance.**

**25.21(1)** *Eligibility criteria.* Eligibility for tuition assistance shall be based on financial need. Applicants may be found eligible for partial or total tuition assistance. Tuition assistance shall not be approved when the community college receiving the application determines that funding for an

applicant's participation in an eligible certificate program is available from any other public or private funding source.

*a.* Criteria to determine financial need shall include but not be limited to:

(1) The applicant's family income for the 12 months prior to the date of application.

(2) The applicant's family size.

(3) The applicant's county of residence.

*b.* An applicant for tuition assistance under this chapter must have a demonstrated capacity to achieve the following outcomes:

(1) The ability to complete an eligible certificate program.

(2) The ability to enter a postsecondary certificate, diploma, or degree program for credit.

(3) The ability to gain full-time employment.

(4) The ability to maintain full-time employment over a period of time.

*c.* The community college receiving the application shall, after considering factors including but not limited to the following, approve an applicant for tuition assistance under this chapter only if the community college determines that applicant is likely to succeed in achieving the outcomes described in 25.16(2):

(1) Barriers that may prevent an applicant from completing the certificate program.

(2) Barriers that may prevent an applicant from gaining employment in an in-demand occupation.

**25.21(2)** *Additional provisions.*

*a.* An applicant for tuition assistance under Division II of this chapter shall provide to the gap tuition assistance coordinator at the community college receiving the application documentation of all sources of income.

*b.* Only an applicant eligible to work in the United States shall be approved for tuition assistance under Division II of this chapter.

*c.* An application shall be valid for six months from the date of signature on the application.

*d.* An applicant shall not be approved for tuition assistance under Division II of this chapter for more than one eligible certificate program.

*e.* Eligibility for tuition assistance under Division II of this chapter shall not be construed to guarantee enrollment in any community college certificate program.

*f.* Eligibility for tuition assistance under Division II of this chapter shall be limited to persons earning incomes at or below 250 percent of the federal poverty level as defined by the most recently revised poverty guidelines published by the U.S. Department of Health and Human Services.

[**ARC 1875C**, IAB 2/18/15, effective 3/25/15]

**281—25.22(260I) Eligible costs.** Costs of a certificate program eligible for coverage by gap tuition assistance shall include but are not limited to the following:

1. Tuition.

2. Direct training costs.

3. Required books and equipment.

4. Fees, including but not limited to fees for industry testing services and background checks.

5. Costs of providing direct staff support services, including but not limited to marketing, outreach, application, interview, and assessment processes. Eligible costs for this purpose shall be limited to 20 percent of any allocation of moneys to the two smallest community colleges, 10 percent of any allocation of moneys to the two largest community colleges, and 15 percent of any allocation of moneys to the remaining 11 community colleges. Community college size shall be determined based on the most recent three-year rolling average full-time equivalent enrollment.

[**ARC 1875C**, IAB 2/18/15, effective 3/25/15]

**281—25.23(260I) Eligible certificate programs.** For the purposes of this chapter, "eligible certificate program" means a program meeting all of the following criteria:

**25.23(1)** The program is not offered for credit but is aligned with a certificate, diploma, or degree for credit, and does at least one of the following:

*a.* Offers a nationally, state-, or locally recognized certificate.

*b.* Offers preparation for a professional examination or licensure.

*c.* Provides endorsement for an existing credential or license.

*d.* Represents recognized skill standards defined by an industrial sector.

*e.* Offers a similar PACE credential or training.

**25.23(2)** The program offers training or a credential in an in-demand occupation. For the purposes of this chapter, "in-demand occupation" includes occupations in information technology, health care, advanced manufacturing, transportation and logistics, and any other industry designated as in demand by a regional advisory board established pursuant to Iowa Code section 84A.4.

[**ARC 1875C**, IAB 2/18/15, effective 3/25/15]

**281—25.24(260I) Initial assessment.** An eligible applicant for tuition assistance under Division II of this chapter shall complete an initial assessment administered by the community college receiving the application to determine the applicant's readiness to complete an eligible certificate program. The assessment shall include assessments for completion of a national career readiness certificate, including the areas of reading for information, applied mathematics, and locating information. An applicant must achieve at least a national bronze-level certificate defined as a minimum level 3 for reading, mathematics, and locating information in order to be approved for tuition assistance. An applicant shall complete any additional assessments and occupation research required by the gap tuition assistance program or an eligible certificate program, or both.

[**ARC 1875C**, IAB 2/18/15, effective 3/25/15]

**281—25.25(260I) Program interview.** An eligible applicant for tuition assistance under Division II of this chapter shall meet with the gap tuition assistance coordinator for an eligible certificate program offered by the community college receiving the application. The gap tuition assistance coordinator shall discuss the relevant industry, any applicable occupation research, and any applicable training relating to the eligible certificate program. The discussion shall include an evaluation of the applicant's capabilities, needs, family situation, work history, education background, attitude and motivation, employment dates, support needs, and other requirements for an eligible certificate program.

[**ARC 1875C**, IAB 2/18/15, effective 3/25/15]

**281—25.26(260I) Participation requirements.**

**25.26(1)** A participant in an eligible certificate program who receives tuition assistance pursuant to Division II of this chapter shall do all of the following:

*a.* Maintain regular contact with staff members for the certificate program to document the applicant's progress in the program.

*b.* Sign a release form to provide relevant information to community college faculty or case managers.

*c.* Discuss with staff members for the certificate program any issues that may impact the participant's ability to complete the certificate program, obtain employment, and maintain employment over a period of time.

*d.* Attend all required courses regularly.

*e.* Meet with staff members for the certificate program to develop a job search plan.

**25.26(2)** A community college may terminate tuition assistance for a participant who fails to meet the requirements of this rule. The participant may utilize the community college's local appeal process to contest termination from the program. The process to appeal a termination will be provided to a participant through the gap tuition assistance coordinator.

[**ARC 1875C**, IAB 2/18/15, effective 3/25/15]

**281—25.27(260I) Oversight.** Statewide oversight, evaluation, and reporting efforts for the gap tuition assistance program are coordinated by the department.

**25.27(1)** A steering committee consisting of the Iowa department of education, the Iowa workforce development department, and community college continuing education deans and directors is established to determine if the performance measures of the gap tuition assistance program are being met and to

correct any deficiencies. The steering committee shall meet at least quarterly to evaluate and monitor the performance of the gap tuition assistance program.

**25.27(2)** A common intake tracking system is established and shall be implemented consistently by each participating community college. The community colleges will work cooperatively in establishing the system, and the Iowa department of education will assist in gathering required reporting data elements.

**25.27(3)** The steering committee will develop the required program criteria for PACE and gap tuition assistance-certified programs to be eligible for tuition assistance and program funding. These criteria will be developed based on best practices in the development and delivery of career pathway programs that provide a clear sequence of education coursework and credentials aligned with regional workforce skill needs; clearly articulate from one level of instruction to the next; combine occupational skills and remedial adult education; lead to the attainment of a credential or degree; assist with job placement; and provide wraparound social and socioeconomic support services with the goal of increasing the individual's skills attainment and employment potential.

[**ARC 1875C**, IAB 2/18/15, effective 3/25/15]

**281—25.28(260I) Oversight.** Rescinded **ARC 1875C**, IAB 2/18/15, effective 3/25/15.

These rules are intended to implement 2014 Iowa Code chapters 260H and 260I.

[Filed ARC 0102C (Notice ARC 0020C, IAB 2/22/12), IAB 4/18/12, effective 5/23/12]

[Filed ARC 1875C (Notice ARC 1783C, IAB 12/10/14), IAB 2/18/15, effective 3/25/15]

# CHAPTER 13
# ISSUANCE OF TEACHER LICENSES AND ENDORSEMENTS

[Prior to 1/14/09, see Educational Examiners Board[282] Ch 14]

**282—13.1(272) All applicants desiring Iowa licensure.** Licenses are issued upon application filed on a form provided by the board of educational examiners and upon completion of the following:

**13.1(1)** *National criminal history background check.* An initial applicant will be required to submit a completed fingerprint packet that accompanies the application to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet will be assessed to the applicant.

**13.1(2)** *Iowa division of criminal investigation background check.* An Iowa division of criminal investigation background check will be conducted on initial applicants. The fee for the evaluation of the DCI background check will be assessed to the applicant.

**13.1(3)** *Temporary permits.* The executive director may issue a temporary permit to an applicant for any type of license, certification, or authorization issued by the board, after receipt of a fully completed application; determination that the applicant meets all applicable prerequisites for issuance of the license, certification, or authorization; and satisfactory evaluation of the Iowa criminal history background check. The temporary permit shall serve as evidence of the applicant's authorization to hold a position in Iowa schools, pending the satisfactory completion of the national criminal history background check. The temporary permit shall expire upon issuance of the requested license, certification, or authorization or 90 days from the date of issuance of the permit, whichever occurs first, unless the temporary permit is extended upon a finding of good cause by the executive director.

[**ARC 0563C**, IAB 1/23/13, effective 1/1/13]

**282—13.2(272) Applicants from recognized Iowa institutions.** An applicant for initial licensure shall complete either the teacher, administrator, or school service personnel preparation program from a recognized Iowa institution or an alternative program recognized by the Iowa board of educational examiners. A recognized Iowa institution is one which has its program of preparation approved by the state board of education according to standards established by said board, or an alternative program recognized by the state board of educational examiners. Applicants shall complete the requirements set out in rule 282—13.1(272) and shall also have the recommendation for the specific license and endorsement(s) or the specific endorsement(s) from the designated recommending official at the recognized education institution where the preparation was completed.

**282—13.3(272) Applicants from non-Iowa institutions.**

**13.3(1)** *Requirements for applicants from non-Iowa institutions.* An applicant for licensure who completes the teacher, administrator, or school service personnel preparation program from a non-Iowa institution shall verify the requirements of either subrule 13.18(4) or 13.18(5).

**13.3(2)** *Requirements for applicants from non-Iowa traditional teacher preparation programs.* Provided all requirements for Iowa licensure have been met through a state-approved regionally accredited teacher education program at the graduate or undergraduate level in which college or university credits were given and student teaching was required, the applicant shall:

*a.* Provide a recommendation for the specific license and endorsement(s) from the designated recommending official at the recognized institution where the preparation was completed, and

*b.* Submit a copy of a valid or expired regular teaching certificate or license exclusive of a temporary, emergency or substitute license or certificate, and

*c.* Provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education if the teacher preparation program was completed on or after January 1, 2013. If the teacher preparation program was completed prior to January 1, 2013, the applicant must provide verification of successfully passing the mandated assessment(s) in the state in which the applicant is currently licensed or must provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education.

**13.3(3)** *Requirements for applicants from out-of-state nontraditional teacher preparation programs.* An applicant who holds a valid license from another state and whose preparation was completed through a state-approved nontraditional teacher preparation program must:

*a.* Hold a baccalaureate degree with a minimum cumulative grade point average of 2.50 on a 4.0 scale from a regionally accredited institution.

*b.* Provide a valid or expired out-of-state teaching license based on a state-approved nontraditional teacher preparation program.

*c.* Provide a recommendation from a regionally accredited institution, department of education, or a state's standards board indicating the completion of an approved nontraditional teacher preparation program.

*d.* Provide an official institutional transcript(s) to be analyzed for the requirements necessary for full Iowa licensure based on 13.9(4)*"a"*(1) to (7), 13.9(4)*"c"*(1) to (5), 13.18(2), 282—13.28(272), and 282—14.2(272).

*e.* Meet the recency requirements listed in 13.10(3).

*f.* Provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education if the nontraditional teacher preparation program was completed on or after January 1, 2013. If the nontraditional teacher preparation program was completed prior to January 1, 2013, the applicant must provide verification from the state licensing agency/department in the state where the nontraditional teacher preparation program was completed indicating that the applicant has successfully passed that state's mandated assessment(s) or must provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education.

*g.* Complete a student teaching or internship experience or verify three years of teaching experience.

*h.* If through a transcript analysis the professional education core requirements set forth in 13.9(4)*"a"*(1) to (7), 13.9(4)*"c"*(1) to (5), and 13.18(2) and the content endorsement requirements pursuant to 282—13.28(272) may be identified by course titles, published course descriptions, and grades, then the transcripts will be reviewed to determine the applicant's eligibility for an Iowa teaching license. However, if the professional education core requirements of 13.9(4)*"a"*(1) to (7), 13.9(4)*"c"*(1) to (5), and 13.18(2) and the content endorsement requirements cannot be reviewed in this manner, a portfolio review and evaluation process will be utilized.

**13.3(4)** *Portfolio review and evaluation process.* An applicant whose professional education core requirements pursuant to 13.9(4)*"a"*(1) to (7), 13.9(4)*"c"*(1) to (5), and 13.18(2) or whose content endorsement requirements for special education (282—subrule 14.2(2)) could not be reviewed through transcript analysis may submit to the board a portfolio in the approved format for review and evaluation.

*a.* An applicant must demonstrate proficiency in seven of the nine standards in the Iowa professional education core, set forth in 13.18(4)*"a"* to *"i,"* to be eligible to receive a license.

*b.* An applicant must have completed at least 75 percent of the endorsement requirements through a two- or four-year institution in order for the endorsement to be included on the license. An applicant who does not have at least 75 percent of one content endorsement area as described in 282—13.28(272) completed will not be issued a license.

*c.* An applicant must meet with the board of educational examiners to answer any of the board's questions concerning the portfolio.

*d.* Any deficiencies in the professional education core as set forth in 13.18(4)*"a"* to *"i"* or in the special education content endorsement area that are identified during the portfolio review and evaluation process shall be met through coursework with course credits completed at a state-approved, regionally accredited institution or through courses approved by the executive director. Other content deficiencies may be met through coursework in a two- or four-year institution in which course credits are given.

**13.3(5)** *Definitions.*

*"Nontraditional"* means any method of teacher preparation that falls outside the traditional method of preparing teachers, that provides at least a one- or two-year sequenced program of instruction taught

at regionally accredited and state-approved colleges or universities, that includes commonly recognized pedagogy classes being taught for course credit, and that requires a student teaching component.

*"Proficiency,"* for the purposes of 13.3(4)*"a,"* means that an applicant has passed all parts of the standard.

*"Recognized non-Iowa teacher preparation institution"* means an institution that is state-approved and is accredited by the regional accrediting agency for the territory in which the institution is located.

**13.3(6)** *Requirements for applicants whose preparation was completed through out-of-state teacher preparation programs and who have attained National Board Certification.* An applicant who holds a valid license from another state and who has attained National Board Certification must:

*a.* Hold a baccalaureate degree with a minimum cumulative grade point average of 2.50 on a 4.0 scale from an accredited institution.

*b.* Provide a valid or expired out-of-state teaching license based on a state-approved teacher preparation program.

*c.* Provide a recommendation from a regionally accredited institution, a state department of education, or a state's standards board indicating the completion of a state-approved teacher preparation program.

*d.* Provide an official institutional transcript(s).

*e.* Meet the recency requirements listed in 13.10(3).

*f.* Provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education if the teacher preparation program was completed on or after January 1, 2013. If the teacher preparation program was completed prior to January 1, 2013, the applicant must provide verification of successfully passing the mandated assessment(s) in the state in which the applicant is currently licensed or pass the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education.

*g.* Provide valid, current National Board Certification. If through a transcript analysis the professional education core requirements set forth in 13.18(4)*"a"* to *"m"* and 13.18(5), the content endorsement requirements set forth in 282—13.26(272) to 282—13.28(272) and 282—14.2(272), and the Iowa requirements are not met, the applicant may be eligible for the equivalent Iowa endorsement areas, as designated by the Iowa board of educational examiners, based on the National Board Certification.

[**ARC 8139B**, IAB 9/9/09, effective 10/14/09; **ARC 8610B**, IAB 3/10/10, effective 4/14/10; **ARC 0563C**, IAB 1/23/13, effective 1/1/13; **ARC 0867C**, IAB 7/24/13, effective 8/28/13; **ARC 1166C**, IAB 11/13/13, effective 12/18/13; **ARC 1454C**, IAB 5/14/14, effective 6/18/14]

**282—13.4(272) Applicants from foreign institutions.** An applicant for initial licensure whose preparation was completed in a foreign institution must obtain a course-by-course credential evaluation report completed by one of the board-approved credential evaluation services and then file this report with the Iowa board of educational examiners for a determination of eligibility for licensure. After receiving the notification of eligibility by the Iowa board of educational examiners, the applicant must provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education.

[**ARC 0563C**, IAB 1/23/13, effective 1/1/13]

**282—13.5(272) Teacher licenses.** A license may be issued to applicants who fulfill the general requirements set out in subrule 13.5(1) and the specific requirements set out for each license.

**13.5(1)** *General requirements.* The applicant shall:

*a.* Have a baccalaureate degree from a regionally accredited institution.

*b.* Have completed a state-approved teacher education program which meets the requirements of the professional education core.

*c.* Have completed an approved human relations component.

*d.* Have completed the exceptional learner component.

*e.* Have completed the requirements for one of the basic teaching endorsements.

*f.* Meet the recency requirement of subrule 13.10(3).

**13.5(2)** *Renewal requirements.* Renewal requirements for teacher licenses are set out in 282—Chapter 20.

**282—13.6(272) Specific requirements for an initial license.** An initial license valid for two years may be issued to an applicant who meets the general requirements set forth in subrule 13.5(1).

**282—13.7(272) Specific requirements for a standard license.** A standard license valid for five years may be issued to an applicant who:

1. Meets the general requirements set forth in subrule 13.5(1), and
2. Shows evidence of successful completion of a state-approved mentoring and induction program by meeting the Iowa teaching standards as determined by a comprehensive evaluation and two years' successful teaching experience. In lieu of completion of an Iowa state-approved mentoring and induction program, the applicant must provide evidence of three years' successful teaching experience in an Iowa nonpublic school or three years' successful teaching experience in an out-of-state K-12 educational setting.

**282—13.8(272) Specific requirements for a master educator's license.** A master educator's license is valid for five years and may be issued to an applicant who:

1. Is the holder of or is eligible for a standard license as set out in rule 282—13.7(272), and
2. Verifies five years of successful teaching experience, and
3. Completes one of the following options:

- Master's degree from a regionally accredited college or university in a recognized endorsement area, or
- Master's degree from a regionally accredited college or university in curriculum, effective teaching, or a similar degree program which has a focus on school curriculum or instruction.

[**ARC 1168C**, IAB 11/13/13, effective 12/18/13]

**282—13.9(272) Teacher intern license.**

**13.9(1)** *Authorization.* The teacher intern is authorized to teach in grades 7 to 12.

**13.9(2)** *Term.* The term of the teacher intern license will be one school year. This license is nonrenewable. The fee for the teacher intern license is in 282—Chapter 12.

**13.9(3)** *Teacher intern requirements.* A teacher intern license shall be issued upon application, provided that the following requirements have been met. The applicant shall:

*a.* Hold a baccalaureate degree with a minimum cumulative grade point average of 2.50 on a 4.0 scale from a regionally accredited institution or meet the admission criteria set forth in 281—subrule 77.11(2).

*b.* Meet the requirements of at least one of the board's secondary (5-12) teaching endorsements listed in rule 282—13.28(272).

*c.* Possess a minimum of three years of postbaccalaureate work experience. An authorized official at a college or university with an approved teacher intern program will evaluate this experience.

*d.* Successfully complete the teacher intern program requirements listed in subrule 13.9(4) and approved by the state board of education.

*e.* Successfully pass a basic skills test at the level approved by the teacher education institution.

**13.9(4)** *Program requirements.* The teacher intern shall:

*a.* Complete the following requirements prior to the internship year:

(1) Learning environment/classroom management. The intern uses an understanding of individual and group motivation and behavior to create a learning environment that encourages positive social interaction, active engagement in learning, and self-motivation.

(2) Instructional planning. The intern plans instruction based upon knowledge of subject matter, students, the community, curriculum goals, and state curriculum models.

(3) Instructional strategies. The intern understands and uses a variety of instructional strategies to encourage students' development of critical thinking, problem solving, and performance skills.

(4) Student learning. The intern understands how students learn and develop and provides learning opportunities that support intellectual, career, social, and personal development.

(5) Diverse learners. The intern understands how students differ in their approaches to learning and creates instructional opportunities that are equitable and are adaptable to diverse learners.

(6) Collaboration, ethics and relationships. The intern fosters relationships with parents, school colleagues, and organizations in the larger community to support students' learning and development.

(7) Assessment. The intern understands and uses formal and informal assessment strategies to evaluate the continuous intellectual, social, and physical development of the learner.

(8) Field experiences that provide opportunities for interaction with students in an environment that supports learning in context. These experiences shall total at least 50 contact hours in the field prior to the beginning of the academic year of the candidate's initial employment as a teacher intern.

*b.* Complete four semester hours of a teacher intern seminar during the teacher internship year to include support and extension of coursework from the teacher intern program.

*c.* Complete the coursework and competencies in the following areas:

(1) Foundations, reflection, and professional development. The intern continually evaluates the effects of the practitioner's choices and actions on students, parents, and other professionals in the learning community and actively seeks out opportunities to grow professionally.

(2) Communication. The intern uses knowledge of effective verbal, nonverbal, and media communication techniques, and other forms of symbolic representation, to foster active inquiry and collaboration and to support interaction in the classroom.

(3) Exceptional learner program, which must include preparation that contributes to the education of individuals with disabilities and the gifted and talented.

(4) Preparation in the integration of reading strategies into the content area.

(5) Computer technology related to instruction.

(6) An advanced study of the items set forth in 13.9(4)*"a"*(1) to (7) above.

**13.9(5)** *Local school district requirements.* The local school district shall:

*a.* Provide an offer of employment to an individual who has been evaluated by a college or university for eligibility or acceptance in the teacher intern program.

*b.* Participate in a mentoring and induction program.

*c.* Provide a district mentor for the teacher intern.

*d.* Provide other support and supervision, as needed, to maximize the opportunity for the teacher intern to succeed.

*e.* Not overload the teacher intern with extracurricular duties not directly related to the teacher intern's teaching assignment.

*f.* Provide evidence to the board from a licensed evaluator that the teacher intern is participating in a mentoring and induction program.

*g.* At the board's request, provide information including, but not limited to, the teacher intern selection and preparation program, institutional support, local school district mentor, and local school district support.

**13.9(6)** *Requirements to convert the teacher intern license to the initial license.*

*a.* An initial license shall be issued upon application provided that the teacher intern has met all of the following requirements:

(1) Successful completion of the coursework and competencies in the teacher intern program approved by the state board of education.

(2) Verification from a licensed evaluator that the teacher intern served successfully for a minimum of 160 days.

(3) Verification from a licensed evaluator that the teacher intern is participating in a mentoring and induction program and is being assessed on the Iowa teaching standards.

(4) Recommendation by a college or university offering an approved teacher intern program that the individual is eligible for an initial license.

(5) At the board's request, the teacher intern shall provide to the board information including, but not limited to, the teacher intern selection and preparation program, institutional support, local school district mentor, and local school district support.

*b.* The teacher intern year will count as one of the years that is needed for the teacher intern to convert the initial license to the standard license if the conditions listed in paragraph 13.9(6)*"a"* have been met.

**13.9(7)** *Requirements to obtain the initial license if the teacher intern does not complete the internship year.*

*a.* An initial license shall be issued upon application provided that the teacher intern has met the requirements for one of the following options:

(1) Option #1:

1. Successful completion of the coursework and competencies in the teacher intern program approved by the state board of education; and

2. Verification by a college or university that the teacher intern successfully completed the college's or university's state-approved student teaching requirements; and

3. Recommendation by a college or university offering an approved teacher intern program that the individual is eligible for an initial license.

(2) Option #2:

1. Successful completion of the coursework and competencies in the teacher intern program approved by the state board of education; and

2. Verification by the approved teacher intern program that the teacher intern successfully completed 40 days of paid substitute teaching; and

3. Verification by the teacher intern program that the teacher intern successfully completed 40 days of co-teaching; and

4. Recommendation by the approved teacher intern program that the individual is eligible for an initial license.

*b.* At the board's request, the teacher intern shall provide to the board information including, but not limited to, the teacher intern selection and preparation program, institutional support, local school district mentor, and local school district support.

**13.9(8)** *Requirements to extend the teacher intern license if the teacher intern does not complete all of the education coursework during the term of the teacher intern license.*

*a.* A one-year extension of the teacher intern license may be issued upon application provided that the teacher intern has met both of the following requirements:

(1) Successful completion of 160 days of teaching experience during the teacher internship.

(2) Verification by the recommending official at the approved teacher intern program that the teacher intern has not completed all of the coursework required for the initial license.

*b.* Only one year of teaching experience during the term of the teacher intern license or the extension of a teacher intern license may be used to convert the teacher intern license to a standard teaching license.

**13.9(9)** *Requirements to obtain a teacher intern license if teaching in an international school.* A teacher intern candidate shall:

*a.* Hold a baccalaureate degree from an accredited institution.

*b.* Meet the requirements of at least one of the board's secondary (5-12) teaching endorsements listed in rule 282—13.28(272).

*c.* Successfully complete the teacher intern program requirements listed in 13.9(4)*"a"*(1) to (7), 13.9(4)*"b"* and 13.9(4)*"c"*(1) to (6) through a four-year college or university and approved by the state board of education.

**13.9(10)** *Requirements to convert the teacher intern license to the initial license if teaching in an international school.* An initial license shall be issued upon application provided that the teacher intern has met all of the following requirements:

*a.* Successful completion of the coursework and competencies in the teacher intern program approved by the state board of education.

*b.* Verification that the teacher intern served successfully for a minimum of 160 days.

[**ARC 8688B**, IAB 4/7/10, effective 5/12/10; **ARC 9925B**, IAB 12/14/11, effective 1/18/12; **ARC 0698C**, IAB 5/1/13, effective 6/5/13; **ARC 0865C**, IAB 7/24/13, effective 8/28/13; **ARC 1374C**, IAB 3/19/14, effective 4/23/14]

**282—13.10(272) Specific requirements for a Class A license.** A nonrenewable Class A license valid for one year may be issued to an individual who has completed a teacher education program under any one of the following conditions:

**13.10(1)** *Professional core requirements.* The individual has not completed all of the required courses in the professional core, 13.18(4)*"a"* through *"j."*

**13.10(2)** *Human relations component.* The individual has not completed an approved human relations component.

**13.10(3)** *Recency.* The individual meets the requirements for a valid license, but has had fewer than 160 days of teaching experience during the five-year period immediately preceding the date of application or has not completed six semester hours of college credit from a recognized institution within the five-year period. To obtain the desired license, the applicant must complete recent credits and, where recent credits are required, these credits shall be taken in professional education or in the applicant's endorsement area(s).

**13.10(4)** *Degree not granted until next regular commencement.* Rescinded IAB 9/9/09, effective 10/14/09.

**13.10(5)** *Based on an expired Iowa certificate or license, exclusive of a Class A or Class B license.*

*a.* The holder of an expired license, exclusive of a Class A or Class B license, shall be eligible to receive a Class A license upon application. This license shall be endorsed for the type of service authorized by the expired license on which it is based.

*b.* The holder of an expired license who is currently under contract with an Iowa educational unit (area education agency/local education agency/local school district) and who does not meet the renewal requirements for the license held shall be required to secure the signature of the superintendent or designee before the license will be issued.

**13.10(6)** *Based on a mentoring and induction program.* An applicant may be eligible for a Class A license if the school district, after conducting a comprehensive evaluation, recommends and verifies that the applicant shall participate in the mentoring program for a third year.

**13.10(7)** *Based on an administrative decision.* The executive director is authorized to issue a Class A license to an applicant whose services are needed to fill positions in unique need circumstances.

[**ARC 7987B**, IAB 7/29/09, effective 9/2/09; **ARC 8134B**, IAB 9/9/09, effective 10/14/09; **ARC 8957B**, IAB 7/28/10, effective 9/1/10]

**282—13.11(272) Specific requirements for a Class B license.** A Class B license, which is valid for two years and which is nonrenewable, may be issued to an individual under the following conditions:

**13.11(1)** *Endorsement in progress.* The individual has a valid initial, standard, master educator, permanent professional, Class A (one-year extension of an initial, standard, or master educator), exchange, or professional service license and one or more endorsements but is seeking to obtain some other endorsement. A Class B license may be issued if requested by an employer and if the individual seeking to obtain some other endorsement has completed at least two-thirds of the requirements, or one-half of the content requirements in a state-designated shortage area, leading to completion of all requirements for the endorsement. A Class B license may not be issued for the driver's education endorsement.

**13.11(2)** *Program of study for special education endorsement.* The college or university must outline the program of study necessary to meet the special education endorsement requirements. This program of study must be attached to the application.

**13.11(3)** *Request for exception.* A school district administrator may file a written request with the board for an exception to the minimum content requirements on the basis of documented need and benefit to the instructional program. The board will review the request and provide a written decision either approving or denying the request.

**13.11(4)** *Provisional occupational license.* If an individual is eligible for a provisional occupational license but has not met all of the experience requirements, a Class B license may be issued while the individual earns the necessary experience.

**13.11(5)** *Expiration.* This license will expire on June 30 of the fiscal year in which it was issued plus one year.

[**ARC 7987B**, IAB 7/29/09, effective 9/2/09; **ARC 8133B**, IAB 9/9/09, effective 10/14/09; **ARC 9207B**, IAB 11/3/10, effective 12/8/10; **ARC 9573B**, IAB 6/29/11, effective 8/3/11]

**282—13.12(272) Specific requirements for a Class C license.** Rescinded IAB 7/29/09, effective 9/2/09.

**282—13.13(272) Specific requirements for a Class D occupational license.** Rescinded IAB 7/29/09, effective 9/2/09.

**282—13.14(272) Specific requirements for a Class E license.** A nonrenewable license valid for one year may be issued to an individual as follows:

**13.14(1)** *Expired license.* Based on an expired Class A, Class B, or teacher exchange license, the holder of the expired license shall be eligible to receive a Class E license upon application and submission of all required materials.

**13.14(2)** *Application.* The application process will require transcripts of coursework completed during the term of the expired license, a program of study indicating the coursework necessary to obtain full licensure, and registration for coursework to be completed during the term of the Class E license. The Class E license will be denied if the applicant has not completed any coursework during the term of the Class A or Class B license unless extenuating circumstances are verified.

[**ARC 7987B**, IAB 7/29/09, effective 9/2/09]

**282—13.15(272) Specific requirements for a Class G license.** A nonrenewable Class G license valid for one year may be issued to an individual who must complete a school counseling practicum or internship in an approved program in preparation for the professional school counselor endorsement. The Class G license may be issued under the following limited conditions:

1. Verification of a baccalaureate degree from a regionally accredited institution.
2. Verification from the institution that the individual is admitted and enrolled in a school counseling program.
3. Verification that the individual has completed the coursework and competencies required prior to the practicum or internship.
4. Written documentation of the requirements listed in "1" to "3" above, provided by the official at the institution where the individual is completing the approved school counseling program and forwarded to the Iowa board of educational examiners with the application form for licensure.

[**ARC 1328C**, IAB 2/19/14, effective 3/26/14]

**282—13.16(272) Specific requirements for a substitute teacher's license.**

**13.16(1)** *Substitute teacher requirements.* A substitute teacher's license may be issued to an individual who provides verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education if the teacher preparation program was completed on or after January 1, 2013, and who:

*a.* Has completed a traditional teacher preparation program and been the holder of, or presently holds, a license in Iowa; or holds or held a regular teacher's license or certificate in another state, exclusive of temporary, emergency, or substitute certificate or license; or

*b.* Has successfully completed all requirements of an approved teacher education program, but did not apply for an Iowa teacher's license at the time of completion of the approved program; or

*c.* Holds a valid or expired teaching certificate based on a nontraditional teacher preparation program, is able to verify three years of teaching experience, and provides passing scores on tests mandated by the state that issued the certificate. The license issued will contain a disclaimer stating that the holder of this license may not be eligible for full Iowa teaching licensure.

**13.16(2)** *Validity.* A substitute license is valid for five years and for not more than 90 days of teaching in one assignment during any one school year. A school district administrator may file a written request with the board for an extension of the 90-day limit in one assignment on the basis of documented need and benefit to the instructional program. The board will review the request and provide a written decision either approving or denying the request.

**13.16(3)** *Authorization.* The holder of a substitute license is authorized to teach in any school system in any position in which a regularly licensed teacher was employed to begin the school year except in the driver's education classroom. In addition to the authority inherent in the initial, standard, master educator, professional administrator, two-year exchange, and permanent professional licenses and the endorsement(s) held, the holder of one of these regular licenses may substitute on the same basis as the holder of a substitute license while the regular license is in effect.

[**ARC 9205B**, IAB 11/3/10, effective 12/8/10; **ARC 9206B**, IAB 11/3/10, effective 12/8/10; **ARC 0605C**, IAB 2/20/13, effective 3/27/13; **ARC 1324C**, IAB 2/19/14, effective 3/26/14]

**282—13.17(272) Specific requirements for exchange licenses.** An applicant seeking Iowa licensure who completes the teacher preparation program from a recognized non-Iowa institution shall verify the requirements of subrules 13.18(4) and 13.18(5) through traditional course-based preparation program and transcript review. A recognized non-Iowa teacher preparation institution is one that is state-approved and is accredited by the regional accrediting agency for the territory in which the institution is located. Applicants for nontraditional exchange licenses are not required to have received their preparation through regionally approved teacher education programs.

**13.17(1)** *One-year teacher exchange license.*

*a.* For an applicant applying under 13.3(2), a one-year nonrenewable exchange license may be issued to the applicant under the following conditions:

(1) The applicant has completed a state-approved, regionally accredited teacher education program; and

(2) The applicant has the recommendation for the specific license and endorsement(s) from the designated recommending official at the recognized non-Iowa institution where the preparation was completed; and

(3) The applicant holds and submits a copy of a valid or expired certificate or license, exclusive of a temporary, emergency or substitute license or certificate;

1. Reserved.

2. If the applicant submits verification that the applicant has applied for and will receive the applicant's first teaching license and is waiting for the processing or printing of a valid and current out-of-state license, a regional exchange license may be issued and the lack of a valid and current out-of-state license will be listed as a deficiency; and

(4) The applicant must provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education if the teacher preparation program was completed on or after January 1, 2013. If the teacher preparation program was completed prior to January 1, 2013, the applicant must provide verification of successfully passing the mandated assessment(s) in the state in which the applicant is currently licensed or must provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education; and

(5) Each exchange license shall be limited to the area(s) and level(s) of instruction as determined by an analysis of the application, the transcripts and the license or certificate held in the state in which the basic preparation for licensure was completed or of the application and the credential evaluation report. The applicant must have completed at least 75 percent of the endorsement requirements through a two- or four-year institution in order for the endorsement to be included on the exchange license; and

(6) The applicant is not subject to any pending disciplinary proceedings in any state or country; and

(7) The applicant complies with all requirements with regard to application processes and payment of licensure fees.

*b.* After the term of the exchange license has expired, the applicant may apply to be fully licensed if the applicant has completed all requirements and is eligible for full licensure.

**13.17(2)** *Two-year nontraditional exchange license.* For an applicant applying under 13.3(3) and 13.3(4), a two-year nontraditional teacher exchange license may be issued to the applicant from state-approved preparation programs, under the following conditions:

*a.* The applicant has met the requirements of 13.3(4)*"a"* and *"b."*

*b.* The applicant has met the requirements of 13.17(1)*"a"*(3) through (7).

*c.* To convert the two-year nontraditional exchange license, the applicant must meet all deficiencies as well as meet the Iowa teaching standards as determined by a comprehensive evaluation by a licensed evaluator, and the applicant shall have two years of successful teaching experience in Iowa. The evaluator may recommend extending the license for a third year to meet Iowa teaching standards.

*d.* The license may be extended to meet the requirements for two years of successful teaching in Iowa with proof of employment.

**13.17(3)** *International teacher exchange license.*

*a.* A nonrenewable international exchange license may be issued to an applicant under the following conditions:

(1) The applicant has completed a teacher education program in another country; and

(2) The applicant is not subject to any pending disciplinary proceedings in any state or country; and

(3) The applicant complies with all requirements with regard to application processes and payment of licensure fees; and

(4) The applicant is a participant in a teacher exchange program administered through the Iowa department of education, the U.S. Department of Education, or the U.S. Department of State.

*b.* Each exchange license shall be limited to the area(s) and level(s) of instruction as determined by an analysis of the application and the credential evaluation report.

*c.* This license shall not exceed three years.

*d.* After the term of the exchange license has expired, the applicant may apply to be fully licensed if the applicant has completed all requirements and is eligible for full licensure.

**13.17(4)** *Military exchange license.*

*a. Definitions.*

*"Military service"* means honorably serving on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1; in the military services of other states, as provided in 10 U.S.C. Section 101(c); or in the organized reserves of the United States, as provided in 10 U.S.C. Section 10101.

*"Veteran"* means an individual who meets the definition of "veteran" in Iowa Code section 35.1(2).

*b. Spouses of active duty military service members applying under 13.3(2).* A three-year nonrenewable military exchange license may be issued to the applicant under the following conditions:

(1) The applicant has completed a traditional teacher preparation program at a regionally accredited and state-approved two- or four-year college.

(2) The applicant is the holder of a valid and current or an expired teaching license from another state.

(3) The applicant provides verification of the applicant's connection to or the applicant's spouse's connection to the military by providing a copy of current military orders with either a marriage license or a copy of a military ID card for the applicant's spouse.

(4) This license may be converted to a one-year regional exchange license upon application and payment of fees.

*c. Veterans or their spouses applying under 13.3(2).* A five-year teaching license or a one-year exchange license may be issued to an applicant who meets the requirements of 13.17(4)*"b"*(1) and (2). A veteran must provide a copy of the veteran's DD 214. A spouse must provide a copy of the veteran spouse's DD 214 and the couple's marriage license.

*d. Spouses of active duty military service veterans, or veterans' spouses applying under 13.3(3).* If the applicant has completed a nontraditional teacher preparation program but is not eligible for a teaching

license, the applicant will be issued a substitute license, and the initial review for the portfolio review process will be completed by board staff. An applicant must provide verification of connection to the military outlined in 13.17(4)*"b"*(3) or 13.17(4)*"c."*

*e. Military education, training, and service credit.* An applicant for the military exchange license may apply for credit for verified military education, training, or service toward any experience or educational requirement for licensure by submitting documentation to the board of educational examiners. The applicant shall identify the experience or educational requirement to which the credit would be applied if granted. The board of educational examiners shall promptly determine whether the verified military education, training, or service will satisfy all or any part of the identified experience or educational requirement for licensure.

*f. Fees.* Fees for the background check, evaluation and license issued pursuant to 13.17(4) will be limited to the fee outlined in rule 282—12.1(272), paragraph "2."

[**ARC 8138B**, IAB 9/9/09, effective 10/14/09; **ARC 8604B**, IAB 3/10/10, effective 4/14/10; **ARC 9072B**, IAB 9/8/10, effective 10/13/10; **ARC 9840B**, IAB 11/2/11, effective 12/7/11; **ARC 0563C**, IAB 1/23/13, effective 1/1/13; **ARC 0868C**, IAB 7/24/13, effective 8/28/13; **ARC 1166C**, IAB 11/13/13, effective 12/18/13; **ARC 1323C**, IAB 2/19/14, effective 3/26/14; **ARC 1454C**, IAB 5/14/14, effective 6/18/14; **ARC 1878C**, IAB 2/18/15, effective 3/25/15]

**282—13.18(272) General requirements for an original teaching subject area endorsement.** Following are the general requirements for the issuance of a license with an endorsement.

**13.18(1)** Baccalaureate degree from a regionally accredited institution.

**13.18(2)** Completion of an approved human relations component.

**13.18(3)** Completion of the exceptional learner program, which must include preparation that contributes to the education of individuals with disabilities and the gifted and talented.

**13.18(4)** Professional education core. Completed coursework or evidence of competency in:

*a.* Student learning. The practitioner understands how students learn and develop, and provides learning opportunities that support intellectual, career, social and personal development.

*b.* Diverse learners. The practitioner understands how students differ in their approaches to learning and creates instructional opportunities that are equitable and are adaptable to diverse learners.

*c.* Instructional planning. The practitioner plans instruction based upon knowledge of subject matter, students, the community, curriculum goals, and state curriculum models.

*d.* Instructional strategies. The practitioner understands and uses a variety of instructional strategies to encourage students' development of critical thinking, problem solving, and performance skills.

*e.* Learning environment/classroom management. The practitioner uses an understanding of individual and group motivation and behavior to create a learning environment that encourages positive social interaction, active engagement in learning, and self-motivation.

*f.* Communication. The practitioner uses knowledge of effective verbal, nonverbal, and media communication techniques, and other forms of symbolic representation, to foster active inquiry, collaboration, and support interaction in the classroom.

*g.* Assessment. The practitioner understands and uses formal and informal assessment strategies to evaluate the continuous intellectual, social, and physical development of the learner.

*h.* Foundations, reflection and professional development. The practitioner continually evaluates the effects of the practitioner's choices and actions on students, parents, and other professionals in the learning community, and actively seeks out opportunities to grow professionally.

*i.* Collaboration, ethics and relationships. The practitioner fosters relationships with parents, school colleagues, and organizations in the larger community to support students' learning and development.

*j.* Computer technology related to instruction.

*k.* Completion of pre-student teaching field-based experiences.

*l.* Methods of teaching with an emphasis on the subject and grade level endorsement desired.

*m.* Student teaching in the subject area and grade level endorsement desired.

*n.* Preparation in reading programs, including reading recovery, and integration of reading strategies into content area methods coursework.

**13.18(5)** Content/subject matter specialization. The practitioner understands the central concepts, tools of inquiry, and structure of the discipline(s) the practitioner teaches and creates learning experiences that make these aspects of subject matter meaningful for students. This is evidenced by completion of a 30-semester-hour teaching major which must minimally include the requirements for at least one of the basic endorsement areas, special education teaching endorsements, or secondary level occupational endorsements.

**282—13.19(272) NCATE-accredited programs.** Rescinded IAB 6/17/09, effective 7/22/09.

**282—13.20** Reserved.

**282—13.21(272) Human relations requirements for practitioner licensure.** Preparation in human relations shall be included in programs leading to teacher licensure. Human relations study shall include interpersonal and intergroup relations and shall contribute to the development of sensitivity to and understanding of the values, beliefs, lifestyles and attitudes of individuals and the diverse groups found in a pluralistic society.

**13.21(1)** Beginning on or after August 31, 1980, each applicant for an initial practitioner's license shall have completed the human relations requirement.

**13.21(2)** On or after August 31, 1980, each applicant for the renewal of a practitioner's license shall have completed an approved human relations requirement.

**13.21(3)** Credit for the human relations requirement shall be given for licensed persons who can give evidence that they have completed a human relations program which meets board of educational examiners criteria (see rule 282—13.22(272)).

[**ARC 0026C**, IAB 3/7/12, effective 4/11/12]

**282—13.22(272) Development of human relations components.** Human relations components shall be developed by teacher preparation institutions. In-service human relations components may also be developed by educational agencies other than teacher preparation institutions, as approved by the board of educational examiners.

**13.22(1)** *Advisory committee.* Education agencies developing human relations components shall give evidence that in the development of their programs they were assisted by an advisory committee. The advisory committee shall consist of equal representation of various minority and majority groups.

**13.22(2)** *Standards for approved components.* Human relations components will be approved by the board of educational examiners upon submission of evidence that the components are designed to develop the ability of participants to:

*a.* Be aware of and understand the values, lifestyles, history, and contributions of various identifiable subgroups in our society.

*b.* Recognize and deal with dehumanizing biases such as sexism, racism, prejudice, and discrimination and become aware of the impact that such biases have on interpersonal relations.

*c.* Translate knowledge of human relations into attitudes, skills, and techniques which will result in favorable learning experiences for students.

*d.* Recognize the ways in which dehumanizing biases may be reflected in instructional materials.

*e.* Respect human diversity and the rights of each individual.

*f.* Relate effectively to other individuals and various subgroups other than one's own.

**13.22(3)** *Evaluation.* Educational agencies providing the human relations components shall indicate the means to be utilized for evaluation.

**282—13.23** to **13.25** Reserved.

**282—13.26(272) Requirements for elementary endorsements.**

**13.26(1)** *Teacher—prekindergarten-kindergarten.*

*a. Authorization.* The holder of this endorsement is authorized to teach at the prekindergarten/kindergarten level.

*b. Program requirements.*

(1) Degree—baccalaureate, and

(2) Completion of an approved human relations program, and

(3) Completion of the professional education core. See subrule 13.18(3).

*c. Content.*

(1) Human growth and development: infancy and early childhood, unless completed as part of the professional education core. See subrule 13.18(4).

(2) Curriculum development and methodology for young children.

(3) Child-family-school-community relationships (community agencies).

(4) Guidance of young children three to six years of age.

(5) Organization of prekindergarten-kindergarten programs.

(6) Child and family nutrition.

(7) Language development and learning.

(8) Kindergarten: programs and curriculum development.

**13.26(2)** *Teacher—prekindergarten through grade three.*

*a. Authorization.* The holder of this endorsement is authorized to teach children from birth through grade three.

*b. Program requirements.*

(1) Degree—baccalaureate.

(2) Completion of an approved human relations program.

(3) Completion of the professional education core. See subrules 13.18(3) and 13.18(4).

(4) Highly qualified teacher (HQT) status. Applicants from non-Iowa institutions who have completed the requirements for this endorsement must verify their HQT status. The board shall determine the test and the minimum passing score for HQT status. Verification must be provided through one of the following:

1. Written verification from the department of education in the state in which the applicant completed the elementary teacher preparation program that the applicant has achieved HQT status in that state; or

2. Written verification from the department of education in the state where the applicant is currently teaching that the applicant has achieved HQT status in that state; or

3. Submission of the official test score report indicating the applicant has met the qualifying score for licensure in the state in which the applicant completed the elementary teacher preparation program; or

4. Obtaining the qualifying score set by the Iowa board of educational examiners if the applicant has not been teaching within the last five years and completion of a teacher preparation program prior to enactment of the federal highly qualified teacher legislation (June 2006). This option may also be utilized by applicants from outside the United States.

5. For applicants who have completed the requirements for one of the Iowa elementary endorsements, verification of HQT status by meeting the minimum score set by the Iowa board of educational examiners if the applicant has not been teaching within the last five years and completion of a teacher preparation program prior to enactment of the federal highly qualified teacher legislation (June 2006). This option may also be utilized by applicants who have been teaching outside the United States.

*c. Content.*

(1) Child growth and development with emphasis on cognitive, language, physical, social, and emotional development, both typical and atypical, for infants and toddlers, preprimary, and primary school children (grades one through three), unless combined as part of the professional education core. See subrule 13.18(4) of the licensure rules for the professional core.

(2) Historical, philosophical, and social foundations of early childhood education.

(3) Developmentally appropriate curriculum with emphasis on integrated multicultural and nonsexist content including language, mathematics, science, social studies, health, safety, nutrition, visual and expressive arts, social skills, higher-thinking skills, and developmentally appropriate methodology, including adaptations for individual needs, for infants and toddlers, preprimary, and primary school children.

(4) Characteristics of play and creativity, and their contributions to the cognitive, language, physical, social and emotional development and learning of infants and toddlers, preprimary, and primary school children.

(5) Classroom organization and individual interactions to create positive learning environments for infants and toddlers, preprimary, and primary school children based on child development theory emphasizing guidance techniques.

(6) Observation and application of developmentally appropriate assessments for infants and toddlers, preprimary, and primary school children recognizing, referring, and making adaptations for children who are at risk or who have exceptional educational needs and talents.

(7) Home-school-community relationships and interactions designed to promote and support parent, family and community involvement, and interagency collaboration.

(8) Family systems, cultural diversity, and factors which place families at risk.

(9) Child and family health and nutrition.

(10) Advocacy, legislation, and public policy as they affect children and families.

(11) Administration of child care programs to include staff and program development and supervision and evaluation of support staff.

(12) Pre-student teaching field experience with three age levels in infant and toddler, preprimary, and primary programs, with no less than 100 clock hours, and in different settings, such as rural and urban, socioeconomic status, cultural diversity, program types, and program sponsorship.

(13) Student teaching experiences with two different age levels, one before kindergarten and one from kindergarten through grade three.

**13.26(3)** *Teacher—prekindergarten through grade three, including special education.*

*a. Authorization.* The holder of this endorsement is authorized to teach children from birth through grade three.

*b. Program requirements.*

(1) Degree—baccalaureate, and

(2) Completion of an approved human relations program, and

(3) Completion of the professional education core. See subrules 13.18(3) and 13.18(4).

(4) Highly qualified teacher (HQT) status. Applicants from non-Iowa institutions who have completed the requirements for this endorsement must verify their HQT status. The board shall determine the test and the minimum passing score for HQT status. Verification must be provided through one of the following:

1. Written verification from the department of education in the state in which the applicant completed the elementary teacher preparation program that the applicant has achieved HQT status in that state; or

2. Written verification from the department of education in the state where the applicant is currently teaching that the applicant has achieved HQT status in that state; or

3. Submission of the official test score report indicating the applicant has met the qualifying score for licensure in the state in which the applicant completed the elementary teacher preparation program; or

4. Obtaining the qualifying score set by the Iowa board of educational examiners if the applicant has not been teaching within the last five years and completion of a teacher preparation program prior to enactment of the federal highly qualified teacher legislation (June 2006). This option may also be utilized by applicants from outside the United States.

5. For applicants who have completed the requirements for one of the Iowa elementary endorsements, verification of HQT status by meeting the minimum score set by the Iowa board of educational examiners if the applicant has not been teaching within the last five years and completion of

a teacher preparation program prior to enactment of the federal highly qualified teacher legislation (June 2006). This option may also be utilized by applicants who have been teaching outside the United States.

*c. Content.*

(1) Child growth and development.

1. Understand the nature of child growth and development for infants and toddlers (birth through age 2), preprimary (age 3 through age 5) and primary school children (age 6 through age 8), both typical and atypical, in areas of cognition, language development, physical motor, social-emotional, aesthetics, and adaptive behavior.

2. Understand individual differences in development and learning including risk factors, developmental variations and developmental patterns of specific disabilities and special abilities.

3. Recognize that children are best understood in the contexts of family, culture and society and that cultural and linguistic diversity influences development and learning.

(2) Developmentally appropriate learning environment and curriculum implementation.

1. Establish learning environments with social support, from the teacher and from other students, for all children to meet their optimal potential, with a climate characterized by mutual respect, encouraging and valuing the efforts of all regardless of proficiency.

2. Appropriately use informal and formal assessment to monitor development of children and to plan and evaluate curriculum and teaching practices to meet individual needs of children and families.

3. Plan, implement, and continuously evaluate developmentally and individually appropriate curriculum goals, content, and teaching practices for infants, toddlers, preprimary and primary children based on the needs and interests of individual children, their families and community.

4. Use both child-initiated and teacher-directed instructional methods, including strategies such as small and large group projects, unstructured and structured play, systematic instruction, group discussion and cooperative decision making.

5. Develop and implement integrated learning experiences for home-, center- and school-based environments for infants, toddlers, preprimary and primary children.

6. Develop and implement integrated learning experiences that facilitate cognition, communication, social and physical development of infants and toddlers within the context of parent-child and caregiver-child relationships.

7. Develop and implement learning experiences for preprimary and primary children with focus on multicultural and nonsexist content that includes development of responsibility, aesthetic and artistic development, physical development and well-being, cognitive development, and emotional and social development.

8. Develop and implement learning experiences for infants, toddlers, preprimary, and primary children with a focus on language, mathematics, science, social studies, visual and expressive arts, social skills, higher-thinking skills, and developmentally appropriate methodology.

9. Develop adaptations and accommodations for infants, toddlers, preprimary, and primary children to meet their individual needs.

10. Adapt materials, equipment, the environment, programs and use of human resources to meet social, cognitive, physical motor, communication, and medical needs of children and diverse learning needs.

(3) Health, safety and nutrition.

1. Design and implement physically and psychologically safe and healthy indoor and outdoor environments to promote development and learning.

2. Promote nutritional practices that support cognitive, social, cultural and physical development of young children.

3. Implement appropriate appraisal and management of health concerns of young children including procedures for children with special health care needs.

4. Recognize signs of emotional distress, physical and mental abuse and neglect in young children and understand mandatory reporting procedures.

5. Demonstrate proficiency in infant-child cardiopulmonary resuscitation, emergency procedures and first aid.

(4) Family and community collaboration.

1. Apply theories and knowledge of dynamic roles and relationships within and between families, schools, and communities.

2. Assist families in identifying resources, priorities, and concerns in relation to the child's development.

3. Link families, based on identified needs, priorities and concerns, with a variety of resources.

4. Use communication, problem-solving and help-giving skills in collaboration with families and other professionals to support the development, learning and well-being of young children.

5. Participate as an effective member of a team with other professionals and families to develop and implement learning plans and environments for young children.

(5) Professionalism.

1. Understand legislation and public policy that affect all young children, with and without disabilities, and their families.

2. Understand legal aspects, historical, philosophical, and social foundations of early childhood education and special education.

3. Understand principles of administration, organization and operation of programs for children from birth to age 8 and their families, including staff and program development, supervision and evaluation of staff, and continuing improvement of programs and services.

4. Identify current trends and issues of the profession to inform and improve practices and advocate for quality programs for young children and their families.

5. Adhere to professional and ethical codes.

6. Engage in reflective inquiry and demonstration of professional self-knowledge.

(6) Pre-student teaching field experiences. Complete 100 clock hours of pre-student teaching field experience with three age levels in infant and toddler, preprimary, and primary programs and in different settings, such as rural and urban, encompassing differing socioeconomic status, ability levels, cultural and linguistic diversity and program types and sponsorship.

(7) Student teaching. Complete a supervised student teaching experience of a total of at least 12 weeks in at least two different classrooms which include children with and without disabilities in two of three age levels: infant and toddler, preprimary, and primary.

**13.26(4)** *Teacher—elementary classroom.*

*a. Authorization.* The holder of this endorsement is authorized to teach in kindergarten and grades one through six.

*b. Program requirements.*

(1) Degree—baccalaureate, and

(2) Completion of an approved human relations component, and

(3) Completion of the professional education core. See subrules 13.18(3) and 13.18(4).

(4) Highly qualified teacher (HQT) status. Applicants from non-Iowa institutions who have completed the requirements for this endorsement must verify their HQT status. The board shall determine the test and the minimum passing score for HQT status. Verification must be provided through one of the following:

1. Written verification from the department of education in the state in which the applicant completed the elementary teacher preparation program that the applicant has achieved HQT status in that state; or

2. Written verification from the department of education in the state where the applicant is currently teaching that the applicant has achieved HQT status in that state; or

3. Submission of the official test score report indicating the applicant has met the qualifying score for licensure in the state in which the applicant completed the elementary teacher preparation program; or

4. Obtaining the qualifying score set by the Iowa board of educational examiners if the applicant has not been teaching within the last five years and completion of a teacher preparation program prior to enactment of the federal highly qualified teacher legislation (June 2006). This option may also be utilized by applicants from outside the United States.

5. For applicants who have completed the requirements for one of the Iowa elementary endorsements, verification of HQT status by meeting the minimum score set by the Iowa board of educational examiners if the applicant has not been teaching within the last five years and completion of a teacher preparation program prior to enactment of the federal highly qualified teacher legislation (June 2006). This option may also be utilized by applicants who have been teaching outside the United States.

*c. Content.*

(1) Child growth and development with emphasis on the emotional, physical and mental characteristics of elementary age children, unless completed as part of the professional education core. See subrule 13.18(4).

(2) Methods and materials of teaching elementary language arts.

(3) Methods and materials of teaching elementary reading.

(4) Elementary curriculum (methods and materials).

(5) Methods and materials of teaching elementary mathematics.

(6) Methods and materials of teaching elementary science.

(7) Children's literature.

(8) Methods and materials of teaching elementary social studies.

(9) Methods and materials in two of the following areas:

1. Methods and materials of teaching elementary health.

2. Methods and materials of teaching elementary physical education.

3. Methods and materials of teaching elementary art.

4. Methods and materials of teaching elementary music.

(10) Pre-student teaching field experience in at least two different grades.

(11) A field of specialization in a single discipline or a formal interdisciplinary program of at least 12 semester hours.

**13.26(5)** *Teacher—elementary classroom.* Effective September 1, 2015, the following requirements apply to persons who wish to teach in the elementary classroom:

*a. Authorization.* The holder of this endorsement is authorized to teach in kindergarten and grades one through six.

*b. Program requirements.*

(1) Degree—baccalaureate, and

(2) Completion of an approved human relations component, and

(3) Completion of the professional education core. See subrules 13.18(3) and 13.18(4).

(4) Highly qualified teacher (HQT) status. Applicants from non-Iowa institutions who have completed the requirements for this endorsement must verify their HQT status. The board shall determine the test and the minimum passing score for HQT status. Verification must be provided through one of the following:

1. Written verification from the department of education in the state in which the applicant completed the elementary teacher preparation program that the applicant has achieved HQT status in that state; or

2. Written verification from the department of education in the state where the applicant is currently teaching that the applicant has achieved HQT status in that state; or

3. Submission of the official test score report indicating the applicant has met the qualifying score for licensure in the state in which the applicant completed the elementary teacher preparation program; or

4. Verification that the applicant has obtained the qualifying score set by the Iowa board of educational examiners if the applicant has not been teaching within the last five years and completion of a teacher preparation program prior to enactment in June 2006 of the federal highly qualified teacher provisions of the Individuals with Disabilities Education Act (IDEA). This option may also be utilized by applicants from outside the United States.

5. For applicants who have completed the requirements for one of the Iowa elementary endorsements, verification of HQT status by meeting the minimum score set by the Iowa board of educational examiners if the applicant has not been teaching within the last five years and completion

of a teacher preparation program prior to enactment in June 2006 of the federal highly qualified teacher provisions of IDEA. This option may also be utilized by applicants who have been teaching outside the United States.

*c. Content.*

(1) Child growth and development with emphasis on the emotional, physical and mental characteristics of elementary age children, unless completed as part of the professional education core. See subrule 13.18(4).

(2) At least 9 semester hours in literacy which must include:

1. Content:

- Children's literature;
- Oral and written communication skills for the twenty-first century.

2. Methods:

- Assessment, diagnosis and evaluation of student learning in literacy;
- Integration of the language arts (to include reading, writing, speaking, viewing, and listening);
- Integration of technology in teaching and student learning in literacy;
- Current best-practice, research-based approaches of literacy instruction;
- Classroom management as it applies to literacy methods;
- Pre-student teaching clinical experience in teaching literacy.

(3) At least 9 semester hours in mathematics which must include:

1. Content:

- Numbers and operations;
- Algebra/number patterns;
- Geometry;
- Measurement;
- Data analysis/probability.

2. Methods:

- Assessment, diagnosis and evaluation of student learning in mathematics;
- Current best-practice, research-based instructional methods in mathematical processes (to include problem solving; reasoning; communication; the ability to recognize, make and apply connections; integration of manipulatives; the ability to construct and to apply multiple connected representations; and the application of content to real world experiences);
- Integration of technology in teaching and student learning in mathematics;
- Classroom management as it applies to mathematics methods;
- Pre-student teaching clinical experience in teaching mathematics.

(4) At least 9 semester hours in social sciences which must include:

1. Content:

- History;
- Geography;
- Political science/civic literacy;
- Economics;
- Behavioral sciences.

2. Methods:

- Current best-practice, research-based approaches to the teaching and learning of social sciences;
- Integration of technology in teaching and student learning in social sciences;
- Classroom management as it applies to social science methods.

(5) At least 9 semester hours in science which must include:

1. Content:

- Physical science;
- Earth/space science;
- Life science.

2. Methods:

- Current best-practice, research-based methods of inquiry-based teaching and learning of science;
- Integration of technology in teaching and student learning in science;
- Classroom management as it applies to science methods.

(6) At least 3 semester hours to include all of the following:

1. Methods of teaching elementary physical education, health, and wellness;
2. Methods of teaching visual arts for the elementary classroom;
3. Methods of teaching performance arts for the elementary classroom.

(7) Pre-student teaching field experience in at least two different grade levels to include one primary and one intermediate placement.

(8) A field of specialization in a single discipline or a formal interdisciplinary program of at least 12 semester hours.

[**ARC 8400B**, IAB 12/16/09, effective 1/20/10; **ARC 8401B**, IAB 12/16/09, effective 1/20/10; **ARC 8402B**, IAB 12/16/09, effective 1/20/10; **ARC 8607B**, IAB 3/10/10, effective 4/14/10; **ARC 0446C**, IAB 11/14/12, effective 12/19/12]

**282—13.27(272) Requirements for middle school endorsements.**

**13.27(1)** *Authorization.* The holder of this endorsement is authorized to teach in the two concentration areas in which the specific requirements have been completed as well as in other subject areas in grades five through eight which are not the core content areas. The holder is not authorized to teach art, industrial arts, music, reading, physical education and special education.

**13.27(2)** *Program requirements.*

*a.* Be the holder of a currently valid Iowa teacher's license with either the general elementary endorsement or one of the subject matter secondary level endorsements set out in rule 282—13.28(272) or 282—subrules 17.1(1) and 17.1(3).

*b.* A minimum of 9 semester hours of required coursework in the following:

(1) Coursework in the growth and development of the middle school age child, specifically addressing the social, emotional, physical and cognitive characteristics and needs of middle school age children in addition to related studies completed as part of the professional education core in subrule 13.18(4).

(2) Coursework in middle school design, curriculum, instruction, and assessment including, but not limited to, interdisciplinary instruction, teaming, and differentiated instruction in addition to related studies completed as part of the professional education core in subrule 13.18(4).

(3) Coursework to prepare middle school teachers in literacy (reading, writing, listening and speaking) strategies for students in grades five through eight and in methods to include these strategies throughout the curriculum.

*c.* Thirty hours of middle school field experiences included in the coursework requirements listed in 13.27(2)*"b"*(1) to (3).

**13.27(3)** *Concentration areas.* To obtain this endorsement, the applicant must complete the coursework requirements in two of the following content areas:

*a.* *Social studies concentration.* The social studies concentration requires 12 semester hours of coursework in social studies to include coursework in United States history, world history, government and geography.

*b.* *Mathematics concentration.* The mathematics concentration requires 12 semester hours in mathematics to include coursework in algebra.

*c.* *Science concentration.* The science concentration requires 12 semester hours in science to include coursework in life science, earth science, and physical science.

*d.* *Language arts concentration.* The language arts concentration requires 12 semester hours in language arts to include coursework in composition, language usage, speech, young adult literature, and literature across cultures.

**282—13.28(272) Minimum content requirements for teaching endorsements.**

**13.28(1)** *Agriculture.* 5-12. Completion of 24 semester credit hours in agriculture and agriculture education to include:

*a.* Foundations of vocational and career education.

*b.* Planning and implementing courses and curriculum.

*c.* Methods and techniques of instruction to include evaluation of programs and students.

*d.* Coordination of cooperative education programs.

*e.* Coursework in each of the following areas and at least three semester credit hours in five of the following areas:

(1) Agribusiness systems.

(2) Power, structural, and technical systems.

(3) Plant systems.

(4) Animal systems.

(5) Natural resources systems.

(6) Environmental service systems.

(7) Food products and processing systems.

**13.28(2)** *Art.* K-8 or 5-12. Completion of 24 semester hours in art to include coursework in art history, studio art, and two- and three-dimensional art.

**13.28(3)** *Business—all.* 5-12. Completion of 30 semester hours in business to include 6 semester hours in accounting, 3 semester hours in business law to include contract law, 3 semester hours in computer and technical applications in business, 6 semester hours in marketing to include consumer studies, 3 semester hours in management, 6 semester hours in economics, and 3 semester hours in business communications to include formatting, language usage, and oral presentation. Coursework in entrepreneurship and in financial literacy may be a part of, or in addition to, the coursework listed above. Individuals who were licensed in Iowa prior to October 1, 1988, and were allowed to teach marketing without completing the endorsement requirements must complete the endorsement requirements by July 1, 2010, in order to teach or continue to teach marketing. A waiver provision is available through the board of educational examiners for individuals who have been successfully teaching marketing.

**13.28(4)** *Driver education.* 5-12. Completion of 9 semester hours in driver education to include coursework in accident prevention that includes drug and alcohol abuse; vehicle safety; and behind-the-wheel driving.

**13.28(5)** *English/language arts.*

*a.* *K-8.* Completion of 24 semester hours in English and language arts to include coursework in oral communication, written communication, language development, reading, children's literature, creative drama or oral interpretation of literature, and American literature.

*b.* *5-12.* Completion of 24 semester hours in English to include coursework in oral communication, written communication, language development, reading, American literature, English literature and adolescent literature.

**13.28(6)** *Language arts.* 5-12. Completion of 40 semester hours in language arts to include coursework in the following areas:

*a.* *Written communication.*

(1) Develops a wide range of strategies and appropriately uses writing process elements (e.g., brainstorming, free-writing, first draft, group response, continued drafting, editing, and self-reflection) to communicate with different audiences for a variety of purposes.

(2) Develops knowledge of language structure (e.g., grammar), language conventions (e.g., spelling and punctuation), media techniques, figurative language and genre to create, critique, and discuss print and nonprint texts.

*b.* *Oral communication.*

(1) Understands oral language, listening, and nonverbal communication skills; knows how to analyze communication interactions; and applies related knowledge and skills to teach students to become competent communicators in varied contexts.

(2) Understands the communication process and related theories, knows the purpose and function of communication and understands how to apply this knowledge to teach students to make appropriate and effective choices as senders and receivers of messages in varied contexts.

*c.* *Language development.*

(1) Understands inclusive and appropriate language, patterns and dialects across cultures, ethnic groups, geographic regions and social roles.

(2) Develops strategies to improve competency in the English language arts and understanding of content across the curriculum for students whose first language is not English.

*d. Young adult literature, American literature, and world literature.*

(1) Reads, comprehends, and analyzes a wide range of texts to build an understanding of self as well as the cultures of the United States and the world in order to acquire new information, to respond to the needs and demands of society and the workplace, and for personal fulfillment. Among these texts are fiction and nonfiction, graphic novels, classic and contemporary works, young adult literature, and nonprint texts.

(2) Reads a wide range of literature from many periods in many genres to build an understanding of the many dimensions (e.g., philosophical, ethical, aesthetic) of human experience.

(3) Applies a wide range of strategies to comprehend, interpret, evaluate, and appreciate texts. Draws on prior experience, interactions with other readers and writers, knowledge of word meaning and of other texts, word identification strategies, and an understanding of textual features (e.g., sound-letter correspondence, sentence structure, context, graphics).

(4) Participates as a knowledgeable, reflective, creative, and critical member of a variety of literacy communities.

*e. Creative voice.*

(1) Understands the art of oral interpretation and how to provide opportunities for students to develop and apply oral interpretation skills in individual and group performances for a variety of audiences, purposes and occasions.

(2) Understands the basic skills of theatre production including acting, stage movement, and basic stage design.

*f. Argumentation/debate.*

(1) Understands concepts and principles of classical and contemporary rhetoric and is able to plan, prepare, organize, deliver and evaluate speeches and presentations.

(2) Understands argumentation and debate and how to provide students with opportunities to apply skills and strategies for argumentation and debate in a variety of formats and contexts.

*g. Journalism.*

(1) Understands ethical standards and major legal issues including First Amendment rights and responsibilities relevant to varied communication content. Utilizes strategies to teach students about the importance of freedom of speech in a democratic society and the rights and responsibilities of communicators.

(2) Understands the writing process as it relates to journalism (e.g., brainstorming, questioning, reporting, gathering and synthesizing information, writing, editing, and evaluating the final media product).

(3) Understands a variety of forms of journalistic writing (e.g., news, sports, features, opinion, Web-based) and the appropriate styles (e.g., Associated Press, multiple sources with attribution, punctuation) and additional forms unique to journalism (e.g., headlines, cutlines, and/or visual presentations).

*h. Mass media production.*

(1) Understands the role of the media in a democracy and the importance of preserving that role.

(2) Understands how to interpret and analyze various types of mass media messages in order for students to become critical consumers.

(3) Develops the technological skills needed to package media products effectively using various forms of journalistic design with a range of visual and auditory methods.

*i. Reading strategies (if not completed as part of the professional education core requirements).*

(1) Uses a variety of skills and strategies to comprehend and interpret complex fiction, nonfiction and informational text.

(2) Reads for a variety of purposes and across content areas.

**13.28(7)** *Foreign language.* K-8 and 5-12. Completion of 24 semester hours in each foreign language for which endorsement is sought.

**13.28(8)** *Health.* K-8 and 5-12. Completion of 24 semester hours in health to include coursework in public or community health, personal wellness, substance abuse, family life education, mental/emotional health, and human nutrition. A current certificate of CPR training is required in addition to the coursework requirements.

For holders of physical education or family and consumer science endorsements, completion of 18 credit hours in health to include coursework in public or community health, personal wellness, substance abuse, family life education, mental/emotional health, and human nutrition. A current certificate of CPR training is required in addition to the coursework requirements.

**13.28(9)** *Family and consumer sciences—general.* 5-12. Completion of 24 semester hours in family and consumer sciences to include coursework in lifespan development, parenting and child development education, family studies, consumer resource management, textiles or apparel design and merchandising, housing, foods and nutrition, and foundations of career and technical education as related to family and consumer sciences.

**13.28(10)** *Industrial technology.* 5-12. Completion of 24 semester hours in industrial technology to include coursework in manufacturing, construction, energy and power, graphic communications and transportation. The coursework is to include at least 6 semester hours in three different areas.

**13.28(11)** *Journalism.* 5-12. Completion of 15 semester hours in journalism to include coursework in writing, editing, production and visual communications.

**13.28(12)** *Mathematics.*

*a. K-8.* Completion of 24 semester hours in mathematics to include coursework in algebra, geometry, number theory, measurement, computer programming, and probability and statistics.

*b. 5-12.*

(1) Completion of 24 semester hours in mathematics to include a linear algebra or an abstract (modern) algebra course, a geometry course, a two-course sequence in calculus, a computer programming course, a probability and statistics course, and coursework in discrete mathematics.

(2) For holders of the physics 5-12 endorsement, completion of 17 semester hours in mathematics to include a geometry course, a two-course sequence in calculus, a probability and statistics course, and coursework in discrete mathematics.

(3) For holders of the all science 9-12 endorsement, completion of 17 semester hours in mathematics to include a geometry course, a two-course sequence in calculus, a probability and statistics course, and coursework in discrete mathematics.

*c. 5-8 algebra for high school credit.* For a 5-8 algebra for high school credit endorsement, hold either the K-8 mathematics or middle school mathematics endorsement and complete a college algebra or linear algebra class. This endorsement allows the holder to teach algebra to grades 5-8 for high school credit.

**13.28(13)** *Music.*

*a. K-8.* Completion of 24 semester hours in music to include coursework in music theory (at least two courses), music history, and applied music, and a methods course in each of the following: general, choral, and instrumental music.

*b. 5-12.* Completion of 24 semester hours in music to include coursework in music theory (at least two courses), music history (at least two courses), applied music, and conducting, and a methods course in each of the following: general, choral, and instrumental music.

**13.28(14)** *Physical education.*

*a. K-8.* Completion of 24 semester hours in physical education to include coursework in human anatomy, human physiology, movement education, adaptive physical education, personal wellness, human growth and development of children related to physical education, and first aid and emergency care. A current certificate of CPR training is required in addition to the coursework requirements.

*b. 5-12.* Completion of 24 semester hours in physical education to include coursework in human anatomy, kinesiology, human physiology, human growth and development related to maturational and motor learning, adaptive physical education, curriculum and administration of physical education,

personal wellness, and first aid and emergency care. A current certificate of CPR training is required in addition to the coursework requirements.

**13.28(15)** *Reading.*

*a. K-8 requirements.* Completion of 24 semester hours in reading to include all of the following requirements:

(1) Foundations of reading. This requirement includes the following competencies:

1. The practitioner demonstrates knowledge of the psychological, sociocultural, and linguistic foundations of reading and writing processes and instruction.

2. The practitioner demonstrates knowledge of a range of research pertaining to reading, writing, and learning, including scientifically based reading research, and knowledge of histories of reading. The range of research encompasses research traditions from the fields of the social sciences and other paradigms appropriate for informing practice.

3. The practitioner demonstrates knowledge of the major components of reading, such as phonemic awareness, word identification, phonics, vocabulary, fluency, and comprehension, and effectively integrates curricular standards with student interests, motivation, and background knowledge.

(2) Reading in the content areas. This requirement includes the following competencies:

1. The practitioner demonstrates knowledge of text structure and the dimensions of content area vocabulary and comprehension, including literal, interpretive, critical, and evaluative.

2. The practitioner provides content area instruction in reading and writing that effectively uses a variety of research-based strategies and practices.

(3) Practicum. This requirement includes the following competencies:

1. The practitioner works with licensed professionals who observe, evaluate, and provide feedback on the practitioner's knowledge, dispositions, and performance of the teaching of reading and writing.

2. The practitioner effectively uses reading and writing strategies, materials, and assessments based upon appropriate reading and writing research and works with colleagues and families in the support of children's reading and writing development.

(4) Language development. This requirement includes the following competency: The practitioner uses knowledge of language development and acquisition of reading skills (birth through sixth grade), and the variations related to cultural and linguistic diversity to provide effective instruction in reading and writing.

(5) Oral communication. This requirement includes the following competencies:

1. The practitioner has knowledge of the unique needs and backgrounds of students with language differences and delays.

2. The practitioner uses effective strategies for facilitating the learning of Standard English by all learners.

(6) Written communication. This requirement includes the following competency: The practitioner uses knowledge of reading-writing-speaking connections; the writing process; the stages of spelling development; the different types of writing, such as narrative, expressive, persuasive, informational and descriptive; and the connections between oral and written language development to effectively teach writing as communication.

(7) Reading assessment, diagnosis and evaluation. This requirement includes the following competencies:

1. The practitioner uses knowledge of a variety of instruments, procedures, and practices that range from individual to group and from formal to informal to alternative for the identification of students' reading proficiencies and needs, for planning and revising instruction for all students, and for communicating the results of ongoing assessments to all stakeholders.

2. The practitioner demonstrates awareness of policies and procedures related to special programs, including Title I.

(8) Children's nonfiction and fiction. This requirement includes the following competency: The practitioner uses knowledge of children's literature for:

1. Modeling the reading and writing of varied genres, including fiction and nonfiction; technology- and media-based information; and nonprint materials;

2. Motivating through the use of texts at multiple levels, representing broad interests, and reflecting varied cultures, linguistic backgrounds, and perspectives; and

3. Matching text complexities to the proficiencies and needs of readers.

(9) Reading instructional strategies. This requirement includes the following competency: The practitioner uses knowledge of a range of research-based strategies and instructional technology for designing and delivering effective instruction across the curriculum, for grouping students, and for selecting materials appropriate for learners at various stages of reading and writing development and from varied cultural and linguistic backgrounds.

*b. 5-12 requirements.* Completion of 24 semester hours in reading to include all of the following requirements:

(1) Foundations of reading. This requirement includes the following competencies:

1. The practitioner demonstrates knowledge of the psychological, sociocultural, and linguistic foundations of reading and writing processes and instruction.

2. The practitioner demonstrates knowledge of a range of research pertaining to reading, writing, and learning, including scientifically based reading research, and knowledge of histories of reading. The range of research encompasses research traditions from the fields of the social sciences and other paradigms appropriate for informing practice.

3. The practitioner demonstrates knowledge of the major components of reading such as phonemic awareness, word identification, phonics, vocabulary, fluency, and comprehension, and integrates curricular standards with student interests, motivation, and background knowledge.

(2) Reading in the content areas. This requirement includes the following competencies:

1. The practitioner demonstrates knowledge of text structure and the dimensions of content area vocabulary and comprehension, including literal, interpretive, critical, and evaluative.

2. The practitioner provides content area instruction in reading and writing that effectively uses a variety of research-based strategies and practices.

(3) Practicum. This requirement includes the following competencies:

1. The practitioner works with licensed professionals who observe, evaluate, and provide feedback on the practitioner's knowledge, dispositions, and performance of the teaching of reading and writing.

2. The practitioner effectively uses reading and writing strategies, materials, and assessments based upon appropriate reading and writing research, and works with colleagues and families in the support of students' reading and writing development.

(4) Language development. This requirement includes the following competency: The practitioner uses knowledge of the relationship of language acquisition and language development with the acquisition and development of reading skills, and the variations related to cultural and linguistic diversity to provide effective instruction in reading and writing.

(5) Oral communication. This requirement includes the following competency: The practitioner demonstrates knowledge of the unique needs and backgrounds of students with language differences and uses effective strategies for facilitating the learning of Standard English by all learners.

(6) Written communication. This requirement includes the following competency: The practitioner uses knowledge of reading-writing-speaking connections to teach the skills and processes necessary for writing narrative, expressive, persuasive, informational, and descriptive texts, including text structures and mechanics such as grammar, usage, and spelling.

(7) Reading assessment, diagnosis and evaluation. This requirement includes the following competencies:

1. The practitioner uses knowledge of a variety of instruments, procedures, and practices that range from individual to group and from formal to informal to alternative for the identification of students' reading proficiencies and needs, for planning and revising instruction for all students, and for communicating the results of ongoing assessments to all stakeholders.

2. The practitioner demonstrates awareness of policies and procedures related to special programs.

(8) Adolescent or young adult nonfiction and fiction. This requirement includes the following competency: The practitioner uses knowledge of adolescent or young adult literature for:

1. Modeling the reading and writing of varied genres, including fiction and nonfiction; technology and media-based information; and nonprint materials;

2. Motivating through the use of texts at multiple levels, representing broad interests, and reflecting varied cultures, linguistic backgrounds and perspectives; and

3. Matching text complexities to the proficiencies and needs of readers.

(9) Reading instructional strategies. This requirement includes the following competency: The practitioner uses knowledge of a range of research-based strategies and instructional technology for designing and delivering instruction across the curriculum, for grouping students, and for selecting materials appropriate for learners at various stages of reading and writing development and from varied cultural and linguistic backgrounds.

**13.28(16)** *Reading specialist.* K-12. The applicant must have met the requirements for the standard license and a teaching endorsement, and present evidence of at least one year of experience which included the teaching of reading as a significant part of the responsibility.

*a. Authorization.* The holder of this endorsement is authorized to serve as a reading specialist in kindergarten and grades one through twelve.

*b. Program requirements.* Degree—master's.

*c. Content.* Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements. This sequence is to be at least 27 semester hours to include the following:

(1) Educational psychology/human growth and development.

(2) Educational measurement and evaluation.

(3) Foundations of reading.

(4) Diagnosis of reading problems.

(5) Remedial reading.

(6) Psychology of reading.

(7) Language learning and reading disabilities.

(8) Practicum in reading.

(9) Administration and supervision of reading programs at the elementary and secondary levels.

**13.28(17)** *Science.*

*a. Science—basic.* K-8.

(1) Required coursework. Completion of at least 24 semester hours in science to include 12 hours in physical sciences, 6 hours in biology, and 6 hours in earth/space sciences.

(2) Pedagogy competencies.

1. Understand the nature of scientific inquiry, its central role in science, and how to use the skills and processes of scientific inquiry.

2. Understand the fundamental facts and concepts in major science disciplines.

3. Be able to make conceptual connections within and across science disciplines, as well as to mathematics, technology, and other school subjects.

4. Be able to use scientific understanding when dealing with personal and societal issues.

*b. Biological science.* 5-12. Completion of 24 semester hours in biological science or 30 semester hours in the broad area of science to include 15 semester hours in biological science.

*c. Chemistry.* 5-12. Completion of 24 semester hours in chemistry or 30 semester hours in the broad area of science to include 15 semester hours in chemistry.

*d. Earth science.* 5-12. Completion of 24 semester hours in earth science or 30 semester hours in the broad area of science to include 15 semester hours in earth science.

*e. Basic science.* 5-12. Completion of 24 semester hours of credit in science to include the following:

(1) Six semester hours of credit in earth and space science to include the following essential concepts and skills:

1. Understand and apply knowledge of energy in the earth system.

2. Understand and apply knowledge of geochemical cycles.

(2) Six semester hours of credit in life science/biological science to include the following essential concepts and skills:

1. Understand and apply knowledge of the cell.
2. Understand and apply knowledge of the molecular basis of heredity.
3. Understand and apply knowledge of the interdependence of organisms.
4. Understand and apply knowledge of matter, energy, and organization in living systems.
5. Understand and apply knowledge of the behavior of organisms.

(3) Six semester hours of credit in physics/physical science to include the following essential concepts and skills:

1. Understand and apply knowledge of the structure of atoms.
2. Understand and apply knowledge of the structure and properties of matter.
3. Understand and apply knowledge of motions and forces.
4. Understand and apply knowledge of interactions of energy and matter.

(4) Six semester hours of credit in chemistry to include the following essential concepts and skills:

1. Understand and apply knowledge of chemical reactions.
2. Be able to design and conduct scientific investigations.

*f.* *Physical science.* Rescinded IAB 11/14/12, effective 12/19/12.

*g.* *Physics.*

(1) 5-12. Completion of 24 semester hours in physics or 30 semester hours in the broad area of science to include 15 semester hours in physics.

(2) For holders of the mathematics 5-12 endorsement, completion of:

1. 12 credits of physics to include coursework in mechanics, electricity, and magnetism; and
2. A methods class that includes inquiry-based instruction, resource management, and laboratory safety.

(3) For holders of the chemistry 5-12 endorsement, completion of 12 credits of physics to include coursework in mechanics, electricity, and magnetism.

*h.* *All science I.* Rescinded IAB 11/14/12, effective 12/19/12.

*i.* *All science.* 5-12.

(1) Completion of 36 semester hours of credit in science to include the following:

1. Nine semester hours of credit in earth and space science to include the following essential concepts and skills:

- Understand and apply knowledge of energy in the earth system.
- Understand and apply knowledge of geochemical cycles.
- Understand and apply knowledge of the origin and evolution of the earth system.
- Understand and apply knowledge of the origin and evolution of the universe.

2. Nine semester hours of credit in life science/biological science to include the following essential concepts and skills:

- Understand and apply knowledge of the cell.
- Understand and apply knowledge of the molecular basis of heredity.
- Understand and apply knowledge of the interdependence of organisms.
- Understand and apply knowledge of matter, energy, and organization in living systems.
- Understand and apply knowledge of the behavior of organisms.
- Understand and apply knowledge of biological evolution.

3. Nine semester hours of credit in physics/physical science to include the following essential concepts and skills:

- Understand and apply knowledge of the structure of atoms.
- Understand and apply knowledge of the structure and properties of matter.
- Understand and apply knowledge of motions and forces.
- Understand and apply knowledge of interactions of energy and matter.
- Understand and apply knowledge of conservation of energy and increase in disorder.

4. Nine semester hours of credit in chemistry to include the following essential concepts and skills:

- Understand and apply knowledge of chemical reactions.

- Be able to design and conduct scientific investigations.

(2) Pedagogy competencies.

1. Understand the nature of scientific inquiry, its central role in science, and how to use the skills and processes of scientific inquiry.

2. Understand the fundamental facts and concepts in major science disciplines.

3. Be able to make conceptual connections within and across science disciplines, as well as to mathematics, technology, and other school subjects.

4. Be able to use scientific understanding when dealing with personal and societal issues.

**13.28(18)** *Social sciences.*

*a.* *American government.* 5-12. Completion of 24 semester hours in American government or 30 semester hours in the broad area of social sciences to include 15 semester hours in American government.

*b.* *American history.* 5-12. Completion of 24 semester hours in American history or 30 semester hours in the broad area of social sciences to include 15 semester hours in American history.

*c.* *Anthropology.* 5-12. Completion of 24 semester hours in anthropology or 30 semester hours in the broad area of social sciences to include 15 semester hours in anthropology.

*d.* *Economics.* 5-12. Completion of 24 semester hours in economics or 30 semester hours in the broad area of social sciences to include 15 semester hours in economics, or 30 semester hours in the broad area of business to include 15 semester hours in economics.

*e.* *Geography.* 5-12. Completion of 24 semester hours in geography or 30 semester hours in the broad area of social sciences to include 15 semester hours in geography.

*f.* *History.* K-8. Completion of 24 semester hours in history to include at least 9 semester hours in American history and 9 semester hours in world history.

*g.* *Psychology.* 5-12. Completion of 24 semester hours in psychology or 30 semester hours in the broad area of social sciences to include 15 semester hours in psychology.

*h.* *Social studies.* K-8. Completion of 24 semester hours in social studies, to include coursework from at least three of these areas: history, sociology, economics, American government, psychology and geography.

*i.* *Sociology.* 5-12. Completion of 24 semester hours in sociology or 30 semester hours in the broad area of social sciences to include 15 semester hours in sociology.

*j.* *World history.* 5-12. Completion of 24 semester hours in world history or 30 semester hours in the broad area of social sciences to include 15 semester hours in world history.

*k.* *All social sciences.* 5-12. Completion of 51 semester hours in the social sciences to include 9 semester hours in each of American and world history, 9 semester hours in government, 6 semester hours in sociology, 6 semester hours in psychology other than educational psychology, 6 semester hours in geography, and 6 semester hours in economics.

**13.28(19)** *Speech communication/theatre.*

*a.* *K-8.* Completion of 20 semester hours in speech communication/theatre to include coursework in speech communication, creative drama or theatre, and oral interpretation.

*b.* *5-12.* Completion of 24 semester hours in speech communication/theatre to include coursework in speech communication, oral interpretation, creative drama or theatre, argumentation and debate, and mass media communication.

**13.28(20)** *English as a second language (ESL).* K-12.

*a.* *Authorization.* The holder of this endorsement is authorized to teach English as a second language in kindergarten and grades one through twelve.

*b.* *Program requirements.*

(1) Degree—baccalaureate, and

(2) Completion of an approved human relations program, and

(3) Completion of the professional education core. See subrules 13.18(3) and 13.18(4).

*c.* *Content.* Completion of 18 semester hours of coursework in English as a second language to include the following:

(1) Knowledge of pedagogy to include the following:

1. Methods and curriculum to include the following:

- Bilingual and ESL methods.
- Literacy in native and second language.
- Methods for subject matter content.
- Adaptation and modification of curriculum.

2. Assessment to include language proficiency and academic content.

(2) Knowledge of linguistics to include the following:

1. Psycholinguistics and sociolinguistics.
2. Language acquisition and proficiency to include the following:

- Knowledge of first and second language proficiency.
- Knowledge of first and second language acquisition.
- Language to include structure and grammar of English.

(3) Knowledge of cultural and linguistic diversity to include the following:

1. History.
2. Theory, models, and research.
3. Policy and legislation.

(4) Current issues with transient populations.

*d.* *Other.* Individuals who were licensed in Iowa prior to October 1, 1988, and were allowed to teach English as a second language without completing the endorsement requirements must complete the endorsement requirements by July 1, 2012, in order to teach or continue to teach English as a second language. A waiver provision is available through the board of educational examiners for individuals who have been successfully teaching English as a second language.

**13.28(21)** *Elementary school teacher librarian.*

*a.* *Authorization.* The holder of this endorsement is authorized to serve as a teacher librarian in kindergarten and grades one through eight.

*b.* *Program requirements.*

(1) Degree—baccalaureate.

(2) Completion of an approved human relations program.

(3) Completion of the professional education core. See subrules 13.18(3) and 13.18(4).

*c.* *Content—prior to September 1, 2012.* The following requirements apply for endorsements issued prior to September 1, 2012. Completion of 24 semester hours in school library coursework to include the following:

(1) Knowledge of materials and literature in all formats for elementary children.

(2) Selection, utilization and evaluation of library resources and equipment.

(3) Design and production of instructional materials.

(4) Acquisition, cataloging and classification of library materials.

(5) Information literacy, reference services and networking.

(6) Planning, evaluation and administration of school library programs.

(7) Practicum in an elementary school media center/library.

*d.* *Content—effective on and after September 1, 2012.* The following requirements apply for endorsements issued on and after September 1, 2012. Completion of 24 semester hours in school library coursework to include the following:

(1) Literacy and reading. This requirement includes the following competencies:

1. Practitioners collaborate with other teachers to integrate developmentally appropriate literature in multiple formats to support literacy in children.

2. Practitioners demonstrate knowledge of resources and strategies to foster leisure reading and model personal enjoyment of reading among children, based on familiarity with selection tools and current trends in literature for children.

(2) Information and knowledge. This requirement includes the following competencies:

1. Practitioners teach multiple strategies to locate, analyze, evaluate, and ethically use information in the context of inquiry-based learning.

2. Practitioners advocate for flexible and open access to library resources, both physical and virtual.

3. Practitioners uphold and promote the legal and ethical codes of their profession, including privacy, confidentiality, freedom and equity of access to information.

4. Practitioners use skills and knowledge to assess reference sources, services, and tools in order to mediate between information needs and resources to assist learners in determining what they need.

5. Practitioners model and facilitate authentic learning with current and emerging digital tools for locating, analyzing, evaluating and ethically using information resources to support research, learning, creating, and communicating in a digital society.

6. Practitioners demonstrate knowledge of creative and innovative uses of technologies to engage students and facilitate higher-level thinking.

7. Practitioners develop an articulated information literacy curriculum grounded in research related to the information search process.

(3) Program administration and leadership. This requirement includes the following competencies:

1. Practitioners evaluate and select print, nonprint, and digital resources using professional selection tools and evaluation criteria to develop and manage a quality collection designed to meet the diverse curricular, personal, and professional needs of the educational community.

2. Practitioners demonstrate knowledge necessary to organize the library collections according to current standard library cataloging and classification principles.

3. Practitioners develop policies and procedures to support ethical use of information, intellectual freedom, selection and reconsideration of library materials, and the privacy of users.

4. Practitioners develop strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the educational program.

(4) Practicum. This requirement includes the following competencies:

1. Practitioners apply knowledge of learning styles, stages of human growth and development, and cultural influences of learning at the elementary level.

2. Practitioners implement the principles of effective teaching and learning that contribute to an active, inquiry-based approach to learning in a digital environment at the elementary level.

3. Practitioners understand the teacher librarian role in curriculum development and the school improvement process at the elementary level.

4. Practitioners collaborate to integrate information literacy and emerging technologies into content area curricula at the elementary level.

**13.28(22)** *Secondary school teacher librarian.*

*a. Authorization.* The holder of this endorsement is authorized to serve as a teacher librarian in grades five through twelve.

*b. Program requirements.*

(1) Degree—baccalaureate.

(2) Completion of an approved human relations program.

(3) Completion of the professional education core. See subrules 13.18(3) and 13.18(4).

*c. Content—prior to September 1, 2012.* The following requirements apply for endorsements issued prior to September 1, 2012. Completion of 24 semester hours in school library coursework to include the following:

(1) Knowledge of materials and literature in all formats for adolescents.

(2) Selection, utilization and evaluation of library resources and equipment.

(3) Design and production of instructional materials.

(4) Acquisition, cataloging and classification of library materials.

(5) Information literacy, reference services and networking.

(6) Planning, evaluation and administration of school library programs.

(7) Practicum in a secondary school media center/library.

*d. Content—effective on and after September 1, 2012.* The following requirements apply for endorsements issued on and after September 1, 2012. Completion of 24 semester hours in school library coursework to include the following:

(1) Literacy and reading. This requirement includes the following competencies:

1. Practitioners collaborate with other teachers to integrate developmentally appropriate literature in multiple formats to support literacy in young adults.

2. Practitioners demonstrate knowledge of resources and strategies to foster leisure reading and model personal enjoyment of reading among young adults, based on familiarity with selection tools and current trends in literature for young adults.

(2) Information and knowledge. This requirement includes the following competencies:

1. Practitioners teach multiple strategies to locate, analyze, evaluate, and ethically use information in the context of inquiry-based learning.

2. Practitioners advocate for flexible and open access to library resources, both physical and virtual.

3. Practitioners uphold and promote the legal and ethical codes of their profession, including privacy, confidentiality, freedom and equity of access to information.

4. Practitioners use skills and knowledge to assess reference sources, services, and tools in order to mediate between information needs and resources to assist learners in determining what they need.

5. Practitioners model and facilitate authentic learning with current and emerging digital tools for locating, analyzing, evaluating and ethically using information resources to support research, learning, creating, and communicating in a digital society.

6. Practitioners demonstrate knowledge of creative and innovative uses of technologies to engage students and facilitate higher-level thinking.

7. Practitioners develop an articulated information literacy curriculum grounded in research related to the information search process.

(3) Program administration and leadership. This requirement includes the following competencies:

1. Practitioners evaluate and select print, nonprint, and digital resources using professional selection tools and evaluation criteria to develop and manage a quality collection designed to meet the diverse curricular, personal, and professional needs of the educational community.

2. Practitioners demonstrate knowledge necessary to organize the library collections according to current standard library cataloging and classification principles.

3. Practitioners develop policies and procedures to support ethical use of information, intellectual freedom, selection and reconsideration of library materials, and the privacy of users.

4. Practitioners develop strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the educational program.

(4) Practicum. This requirement includes the following competencies:

1. Practitioners apply knowledge of learning styles, stages of human growth and development, and cultural influences of learning at the secondary level.

2. Practitioners implement the principles of effective teaching and learning that contribute to an active, inquiry-based approach to learning in a digital environment at the secondary level.

3. Practitioners understand the teacher librarian role in curriculum development and the school improvement process at the secondary level.

4. Practitioners collaborate to integrate information literacy and emerging technologies into content area curricula at the secondary level.

**13.28(23)** *School teacher librarian.* PK-12.

*a. Authorization.* The holder of this endorsement is authorized to serve as a teacher librarian in prekindergarten through grade twelve. The applicant must be the holder of or eligible for the initial license.

*b. Program requirements.* Degree—master's.

*c. Content—prior to September 1, 2012.* The following requirements apply for endorsements issued prior to September 1, 2012. Completion of a sequence of courses and experiences which may have been part of, or in addition to, the degree requirements. This sequence is to be at least 30 semester hours in school library coursework, to include the following:

(1) Planning, evaluation and administration of school library programs.

(2) Curriculum development and teaching and learning strategies.

(3) Instructional development and communication theory.

(4) Selection, evaluation and utilization of library resources and equipment.
(5) Acquisition, cataloging and classification of library materials.
(6) Design and production of instructional materials.
(7) Methods for instruction and integration of information literacy skills into the school curriculum.
(8) Information literacy, reference services and networking.
(9) Knowledge of materials and literature in all formats for elementary children and adolescents.
(10) Reading, listening and viewing guidance.
(11) Utilization and application of computer technology.
(12) Practicum at both the elementary and secondary levels.
(13) Research in library and information science.

*d. Content—effective on and after September 1, 2012.* The following requirements apply for endorsements issued on and after September 1, 2012. Completion of a sequence of courses and experiences which may have been part of, or in addition to, the degree requirements. This sequence is to be at least 30 semester hours in school library coursework, to include the following:

(1) Literacy and reading. This requirement includes the following competencies:

1. Practitioners collaborate with other teachers to integrate developmentally appropriate literature in multiple formats to support literacy for youth of all ages.

2. Practitioners demonstrate knowledge of resources and strategies to foster leisure reading and model personal enjoyment of reading, based on familiarity with selection tools and current trends in literature for youth of all ages.

3. Practitioners understand how to develop a collection of reading and informational materials in print and digital formats that supports the diverse developmental, cultural, social and linguistic needs of all learners and their communities.

4. Practitioners model and teach reading comprehension strategies to create meaning from text for youth of all ages.

(2) Information and knowledge. This requirement includes the following competencies:

1. Practitioners teach multiple strategies to locate, analyze, evaluate, and ethically use information in the context of inquiry-based learning.

2. Practitioners advocate for flexible and open access to library resources, both physical and virtual.

3. Practitioners uphold and promote the legal and ethical codes of their profession, including privacy, confidentiality, freedom and equity of access to information.

4. Practitioners use skills and knowledge to assess reference sources, services, and tools in order to mediate between information needs and resources to assist learners in determining what they need.

5. Practitioners model and facilitate authentic learning with current and emerging digital tools for locating, analyzing, evaluating and ethically using information resources to support research, learning, creating, and communicating in a digital society.

6. Practitioners demonstrate knowledge of creative and innovative uses of technologies to engage students and facilitate higher-level thinking.

7. Practitioners develop an articulated information literacy curriculum grounded in research related to the information search process.

8. Practitioners understand the process of collecting, interpreting, and using data to develop new knowledge to improve the school library program.

9. Practitioners employ the methods of research in library and information science.

(3) Program administration and leadership. This requirement includes the following competencies:

1. Practitioners evaluate and select print, nonprint, and digital resources using professional selection tools and evaluation criteria to develop and manage a quality collection designed to meet the diverse curricular, personal, and professional needs of the educational community.

2. Practitioners demonstrate knowledge necessary to organize the library collections according to current standard library cataloging and classification principles.

3. Practitioners develop policies and procedures to support ethical use of information, intellectual freedom, selection and reconsideration of library materials, and the privacy of users of all ages.

4. Practitioners develop strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the educational program.

5. Practitioners demonstrate knowledge of best practices related to planning, budgeting (including alternative funding), organizing, and evaluating human and information resources and facilities to ensure equitable access.

6. Practitioners understand strategic planning to ensure that the school library program addresses the needs of diverse communities.

7. Practitioners advocate for school library and information programs, resources, and services among stakeholders.

8. Practitioners promote initiatives and partnerships to further the mission and goals of the school library program.

(4) Practicum. This requirement includes the following competencies:

1. Practitioners apply knowledge of learning styles, stages of human growth and development, and cultural influences of learning at the elementary and secondary levels.

2. Practitioners implement the principles of effective teaching and learning that contribute to an active, inquiry-based approach to learning in a digital environment at the elementary and secondary levels.

3. Practitioners understand the teacher librarian role in curriculum development and the school improvement process at the elementary and secondary levels.

4. Practitioners collaborate to integrate information literacy and emerging technologies into content area curricula.

**13.28(24)** *Talented and gifted teacher.*

*a. Authorization.* The holder of this endorsement is authorized to serve as a teacher or a coordinator of programs for the talented and gifted from the prekindergarten level through grade twelve. This authorization does not permit general classroom teaching at any level except that level or area for which the holder is eligible or holds the specific endorsement.

*b. Program requirements—content.* Completion of 12 undergraduate or graduate semester hours of coursework in the area of the talented and gifted to include the following:

(1) Psychology of the gifted.

1. Social needs.

2. Emotional needs.

(2) Programming for the gifted.

1. Prekindergarten-12 identification.

2. Differentiation strategies.

3. Collaborative teaching skills.

4. Program goals and performance measures.

5. Program evaluation.

(3) Practicum experience in gifted programs.

NOTE: Teachers in specific subject areas will not be required to hold this endorsement if they teach gifted students in their respective endorsement areas.

*c. Other.* Individuals who were licensed in Iowa prior to August 31, 1995, and were allowed to teach talented and gifted classes without completing the endorsement requirements must complete the endorsement requirements by July 1, 2012, in order to teach or continue to teach talented and gifted classes. A waiver provision is provided through the board of educational examiners for individuals who have been successfully teaching students who are talented and gifted.

**13.28(25)** *American Sign Language endorsement.*

*a. Authorization.* The holder of this endorsement is authorized to teach American Sign Language in kindergarten and grades one through twelve.

*b. Program requirements.*

(1) Degree—baccalaureate.

(2) Completion of an approved human relations program.

(3) Completion of the professional education core.

*c. Content.* Completion of 18 semester hours of coursework in American Sign Language to include the following:

(1) Second language acquisition.

(2) Sociology of the deaf community.

(3) Linguistic structure of American Sign Language.

(4) Language teaching methodology specific to American Sign Language.

(5) Teaching the culture of deaf people.

(6) Assessment of students in an American Sign Language program.

*d. Other.* Be the holder of or be eligible for one other teaching endorsement listed in rules 282—13.26(272) and 282—13.27(272) and this rule.

**13.28(26)** *Elementary professional school counselor.*

*a. Authorization.* The holder of this endorsement is authorized to serve as a professional school counselor in kindergarten and grades one through eight.

*b. Program requirements.* Master's degree from an accredited institution of higher education.

*c. Content.* Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements to include the following:

(1) Nature and needs of individuals at all developmental levels.

1. Develop strategies for facilitating development through the transition from childhood to adolescence and from adolescence to young adulthood.

2. Apply knowledge of learning and personality development to assist students in developing their full potential.

(2) Social and cultural foundations.

1. Demonstrate awareness of and sensitivity to the unique social, cultural, and economic circumstances of students and their racial/ethnic, gender, age, physical, and learning differences.

2. Demonstrate sensitivity to the nature and the functioning of the student within the family, school and community contexts.

3. Demonstrate the counseling and consultation skills needed to facilitate informed and appropriate action in response to the needs of students.

(3) Fostering of relationships.

1. Employ effective counseling and consultation skills with students, parents, colleagues, administrators, and others.

2. Communicate effectively with parents, colleagues, students and administrators.

3. Counsel students in the areas of personal, social, academic, and career development.

4. Assist families in helping their children address the personal, social, and emotional concerns and problems that may impede educational progress.

5. Implement developmentally appropriate counseling interventions with children and adolescents.

6. Demonstrate the ability to negotiate and move individuals and groups toward consensus or conflict resolution or both.

7. Refer students for specialized help when appropriate.

8. Value the well-being of the students as paramount in the counseling relationship.

(4) Group work.

1. Implement developmentally appropriate interventions involving group dynamics, counseling theories, group counseling methods and skills, and other group work approaches.

2. Apply knowledge of group counseling in implementing appropriate group processes for elementary, middle school, and secondary students.

(5) Career development, education, and postsecondary planning.

1. Assist students in the assessment of their individual strengths, weaknesses, and differences, including those that relate to academic achievement and future plans.

2. Apply knowledge of career assessment and career choice programs.

3. Implement occupational and educational placement, follow-up and evaluation.

4. Develop a counseling network and provide resources for use by students in personalizing the exploration of postsecondary educational opportunities.

(6) Assessment and evaluation.

1. Demonstrate individual and group approaches to assessment and evaluation.

2. Demonstrate an understanding of the proper administration and uses of standardized tests.

3. Apply knowledge of test administration, scoring, and measurement concerns.

4. Apply evaluation procedures for monitoring student achievement.

5. Apply assessment information in program design and program modifications to address students' needs.

6. Apply knowledge of legal and ethical issues related to assessment and student records.

(7) Professional orientation.

1. Apply knowledge of history, roles, organizational structures, ethics, standards, and credentialing.

2. Maintain a high level of professional knowledge and skills.

3. Apply knowledge of professional and ethical standards to the practice of school counseling.

4. Articulate the professional school counselor role to school personnel, parents, community, and students.

(8) School counseling skills.

1. Design, implement, and evaluate a comprehensive, developmental school counseling program.

2. Implement and evaluate specific strategies designed to meet program goals and objectives.

3. Consult and coordinate efforts with resource persons, specialists, businesses, and agencies outside the school to promote program objectives.

4. Provide information appropriate to the particular educational transition and assist students in understanding the relationship that their curricular experiences and academic achievements will have on subsequent educational opportunities.

5. Assist parents and families in order to provide a supportive environment in which students can become effective learners and achieve success in pursuit of appropriate educational goals.

6. Provide training, orientation, and consultation assistance to faculty, administrators, staff, and school officials to assist them in responding to the social, emotional, and educational development of all students.

7. Collaborate with teachers, administrators, and other educators in ensuring that appropriate educational experiences are provided that allow all students to achieve success.

8. Assist in the process of identifying and addressing the needs of the exceptional student.

9. Apply knowledge of legal and ethical issues related to child abuse and mandatory reporting.

10. Advocate for the educational needs of students and work to ensure that these needs are addressed at every level of the school experience.

11. Promote use of school counseling and educational and career planning activities and programs involving the total school community to provide a positive school climate.

(9) Classroom management.

1. Apply effective classroom management strategies as demonstrated in delivery of classroom and large group school counseling curriculum.

2. Consult with teachers and parents about effective classroom management and behavior management strategies.

(10) Curriculum.

1. Write classroom lessons including objectives, learning activities, and discussion questions.

2. Utilize various methods of evaluating what students have learned in classroom lessons.

3. Demonstrate competency in conducting classroom and other large group activities, utilizing an effective lesson plan design, engaging students in the learning process, and employing age-appropriate classroom management strategies.

4. Design a classroom unit of developmentally appropriate learning experiences.

5. Demonstrate knowledge in writing standards and benchmarks for curriculum.

(11) Learning theory.

1. Identify and consult with teachers about how to create a positive learning environment utilizing such factors as effective classroom management strategies, building a sense of community in the classroom, and cooperative learning experiences.

2. Identify and consult with teachers regarding teaching strategies designed to motivate students using small group learning activities, experiential learning activities, student mentoring programs, and shared decision-making opportunities.

3. Demonstrate knowledge of child and adolescent development and identify developmentally appropriate teaching and learning strategies.

(12) Teaching and counseling practicum. The school counselor demonstrates competency in conducting classroom sessions with elementary and middle school students. The practicum consisting of a minimum of 500 contact hours provides opportunities for the prospective counselor, under the supervision of a licensed professional school counselor, to engage in a variety of activities in which a regularly employed school counselor would be expected to participate including, but not limited to, individual counseling, group counseling, developmental classroom guidance, and consultation.

**13.28(27)** *Secondary professional school counselor.*

*a. Authorization.* The holder of this endorsement is authorized to serve as a professional school counselor in grades five through twelve.

*b. Program requirements.* Master's degree from an accredited institution of higher education.

*c. Content.* Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements to include:

(1) The competencies listed in subparagraphs 13.28(26)*"c"*(1) to (11).

(2) The teaching and counseling practicum. The school counselor demonstrates competency in conducting classroom sessions with middle and secondary school students. The practicum consisting of a minimum of 500 contact hours provides opportunities for the prospective counselor, under the supervision of a licensed professional school counselor, to engage in a variety of activities in which a regularly employed school counselor would be expected to participate including, but not limited to, individual counseling, group work, developmental classroom guidance, and consultation.

**13.28(28)** *School nurse endorsement.* The school nurse endorsement does not authorize general classroom teaching, although it does authorize the holder to teach health at all grade levels. Alternatively, a nurse may obtain a statement of professional recognition (SPR) from the board of educational examiners, in accordance with the provisions set out in 282—Chapter 16, Statements of Professional Recognition (SPR).

*a. Authorization.* The holder of this endorsement is authorized to provide service as a school nurse at the prekindergarten and kindergarten levels and in grades one through twelve.

*b. Program requirements.*

(1) Degree—baccalaureate, and

(2) Completion of an approved human relations program, and

(3) Completion of the professional education core. See subrules 13.18(3) and 13.18(4).

*c. Content.*

(1) Organization and administration of school nurse services including the appraisal of the health needs of children and youth.

(2) School-community relationships and resources/coordination of school and community resources to serve the health needs of children and youth.

(3) Knowledge and understanding of the health needs of exceptional children.

(4) Health education.

*d. Other.* Hold a license as a registered nurse issued by the Iowa board of nursing.

**13.28(29)** *Athletic coach.* K-12. An applicant for the coaching endorsement must hold a teacher's license with one of the teaching endorsements.

*a. Authorization.* The holder of this endorsement may serve as a head coach or an assistant coach in kindergarten and grades one through twelve.

*b. Program requirements.*

(1) One semester hour college or university course in the structure and function of the human body in relation to physical activity, and

(2) One semester hour college or university course in human growth and development of children and youth as related to physical activity, and

(3) Two semester hour college or university course in athletic conditioning, care and prevention of injuries and first aid as related to physical activity, and

(4) One semester hour college or university course in the theory of coaching interscholastic athletics, and

(5) Successful completion of the concussion training approved by the Iowa High School Athletic Association or Iowa Girls High School Athletic Union.

**13.28(30)** *Content specialist endorsement.* The applicant must have met the requirements for the standard license and a teaching endorsement.

*a.* *Authorization.* The holder of this endorsement is authorized to serve as a content specialist in kindergarten and grades one through twelve in the specific content listed on the authorization.

*b.* *Requirements.*

(1) Hold a master's degree in the content area or complete 30 semester hours of college course work in the content area.

(2) Complete 15 semester hours of credit in professional development in three or more of the following areas:

1. Using research-based content teaching strategies;
2. Integrating appropriate technology into the learning experiences for the specific content;
3. Engaging the learner in the content through knowledge of learner needs and interests;
4. Using reflective thinking to solve problems in the content area;
5. Making data-driven decisions in the content area;
6. Utilizing project-based learning in the content area;
7. Developing critical thinking skills in the content area;
8. Forming partnerships to collaborate with content experts within the community;
9. Relating content with other content areas;
10. Facilitating content learning in large and small teams;
11. Implementing response to intervention (RTI) to close achievement gaps in the content area.

(3) Complete an internship, externship, or professional experience for a minimum of 90 contact hours in the content area.

**13.28(31)** *Engineering.* 5-12.

*a.* Completion of 24 semester hours in engineering coursework.

*b.* Methods and strategies of STEM instruction or methods of teaching science or mathematics.

**13.28(32)** *STEM.*

*a.* *K-8.*

(1) Authorization. The holder of this endorsement is authorized to teach science, mathematics, and integrated STEM courses in kindergarten through grade eight.

(2) Program requirements. Be the holder of the teacher—elementary classroom endorsement.

(3) Content.

1. Completion of a minimum of 12 semester hours of college-level science.
2. Completion of a minimum of 12 semester hours of college-level math (or the completion of Calculus I) to include coursework in computer programming.
3. Completion of a minimum of 3 semester hours of coursework in content or pedagogy of engineering and technological design that includes engineering design processes or programming logic and problem-solving models and that may be met through either of the following:
   - Engineering and technological design courses for education majors;
   - Technology or engineering content coursework.
4. Completion of a minimum of 6 semester hours of required coursework in STEM curriculum and methods to include the following essential concepts and skills:
   - Comparing and contrasting the nature and goals of each of the STEM disciplines;

- Promoting learning through purposeful, authentic, real-world connections;
- Integration of content and context of each of the STEM disciplines;
- Interdisciplinary/transdisciplinary approaches to teaching (including but not limited to problem-based learning and project-based learning);
- Curriculum and standards mapping;
- Engaging subject-matter experts (including but not limited to colleagues, parents, higher education faculty/students, business partners, and informal education agencies) in STEM experiences in and out of the classroom;
- Assessment of integrative learning approaches;
- Information literacy skills in STEM;
- Processes of science and scientific inquiry;
- Mathematical problem-solving models;
- Communicating to a variety of audiences;
- Classroom management in project-based classrooms;
- Instructional strategies for the inclusive classroom;
- Computational thinking;
- Mathematical and technological modeling.

5. Completion of a STEM field experience of a minimum of 30 contact hours that may be met through the following:

- Completing a STEM research experience;
- Participating in a STEM internship at a STEM business or informal education organization; or
- Leading a STEM extracurricular activity.

*b. 5-8.*

(1) Authorization. The holder of this endorsement is authorized to teach science, mathematics, and integrated STEM courses in grades five through eight.

(2) Program requirements. Be the holder of a 5-12 science, mathematics, or industrial technology endorsement or 5-8 middle school mathematics or science endorsement.

(3) Content.

1. Completion of a minimum of 12 semester hours of college-level science.

2. Completion of a minimum of 12 semester hours of college-level math (or the completion of Calculus I) to include coursework in computer programming.

3. Completion of a minimum of 3 semester hours of coursework in content or pedagogy of engineering and technological design that includes engineering design processes or programming logic and problem-solving models and that may be met through either of the following:

- Engineering and technological design courses for education majors;
- Technology or engineering content coursework.

4. Completion of a minimum of 6 semester hours of required coursework in STEM curriculum and methods to include the following essential concepts and skills:

- Comparing and contrasting the nature and goals of each of the STEM disciplines;
- Promoting learning through purposeful, authentic, real-world connections;
- Integration of content and context of each of the STEM disciplines;
- Interdisciplinary/transdisciplinary approaches to teaching (including but not limited to problem-based learning and project-based learning);
- Curriculum and standards mapping;
- Engaging subject-matter experts (including but not limited to colleagues, parents, higher education faculty/students, business partners, and informal education agencies) in STEM experiences in and out of the classroom;
- Assessment of integrative learning approaches;
- Information literacy skills in STEM;
- Processes of science and scientific inquiry;
- Mathematical problem-solving models;
- Communicating to a variety of audiences;

- Classroom management in project-based classrooms;
- Instructional strategies for the inclusive classroom;
- Computational thinking;
- Mathematical and technological modeling.

5. Completion of a STEM field experience of a minimum of 30 contact hours that may be met through the following:

- Completing a STEM research experience;
- Participating in a STEM internship at a STEM business or informal education organization; or
- Leading a STEM extracurricular activity.

*c. Specialist K-12.*

(1) Authorization. The holder of this endorsement is authorized to serve as a STEM specialist in kindergarten and grades one through twelve.

(2) Program requirements.

1. The applicant must have met the requirements for a standard Iowa teaching license and a teaching endorsement in mathematics, science, engineering, industrial technology, or agriculture.

2. The applicant must hold a master's degree from a regionally accredited institution. The master's degree must be in math, science, engineering or technology or another area with at least 12 hours of college-level science and at least 12 hours of college-level math (or completion of Calculus I) to include coursework in computer programming.

(3) Content.

1. Completion of a minimum of 3 semester hours of coursework in content or pedagogy of engineering and technological design that includes engineering design processes or programming logic and problem-solving models and that may be met through either of the following:

- Engineering and technological design courses for education majors;
- Technology or engineering content coursework.

2. Completion of 9 semester hours in professional development to include the following essential concepts and skills:

- STEM curriculum and methods:

- Comparing and contrasting the nature and goals of each of the STEM disciplines;
- Promoting learning through purposeful, authentic, real-world connections;
- Integration of content and context of each of the STEM disciplines;
- Interdisciplinary/transdisciplinary approaches to teaching (including but not limited to problem-based learning and project-based learning);
- Curriculum/standards mapping;
- Assessment of integrative learning approaches;
- Information literacy skills in STEM;
- Processes of science/scientific inquiry;
- Mathematical problem-solving models;
- Classroom management in project-based classrooms;
- Instructional strategies for the inclusive classroom;
- Computational thinking;
- Mathematical and technological modeling.

- STEM experiential learning:

- Engaging subject-matter experts (including but not limited to colleagues, parents, higher education faculty/students, business partners, and informal education agencies) in STEM experiences in and out of the classroom;
- STEM research experiences;
- STEM internship at a STEM business or informal education organization;
- STEM extracurricular activity;
- Communicating to a variety of audiences.

- Leadership in STEM:

- STEM curriculum development and assessment;

- Curriculum mapping;
- Assessment of student engagement;
- STEM across the curriculum;
- Research on best practices in STEM;
- STEM curriculum accessibility for all students.

3. Completion of an internship/externship professional experience or prior professional experience in STEM for a minimum of 90 contact hours.

[**ARC 7986B**, IAB 7/29/09, effective 9/2/09; **ARC 8248B**, IAB 11/4/09, effective 10/12/09; **ARC 8403B**, IAB 12/16/09, effective 1/20/10; **ARC 9070B**, IAB 9/8/10, effective 10/13/10; **ARC 9071B**, IAB 9/8/10, effective 10/13/10; **ARC 9210B**, IAB 11/3/10, effective 12/8/10; **ARC 9211B**, IAB 11/3/10, effective 12/8/10; **ARC 9212B**, IAB 11/3/10, effective 12/8/10; **ARC 9838B**, IAB 11/2/11, effective 12/7/11; **ARC 9839B**, IAB 11/2/11, effective 12/7/11; **ARC 0448C**, IAB 11/14/12, effective 12/19/12; **ARC 0449C**, IAB 11/14/12, effective 12/19/12; **ARC 0866C**, IAB 7/24/13, effective 8/28/13; **ARC 0875C**, IAB 7/24/13, effective 8/28/13; **ARC 0986C**, IAB 9/4/13, effective 10/9/13; **ARC 1085C**, IAB 10/16/13, effective 11/20/13; **ARC 1171C**, IAB 11/13/13, effective 12/18/13; **ARC 1328C**, IAB 2/19/14, effective 3/26/14; **ARC 1327C**, IAB 2/19/14, effective 3/26/14]

**282—13.29(272) Adding, removing or reinstating a teaching endorsement.**

**13.29(1)** *Adding an endorsement.* After the issuance of a teaching license, an individual may add other endorsements to that license upon proper application, provided current requirements for that endorsement have been met. An updated license with expiration date unchanged from the original or renewed license will be prepared.

*a.* *Options.* To add an endorsement, the applicant must follow one of these options:

(1) Option 1. Receive the Iowa teacher education institution's recommendation that the current approved program requirements for the endorsement have been met.

(2) Option 2. Receive verification from the Iowa teacher education institution that the minimum state requirements for the endorsement have been met in lieu of the institution's approved program.

(3) Option 3. Receive verification from a state-approved and regionally accredited institution that the Iowa minimum requirements for the endorsement have been met.

(4) Option 4. Apply for a review of the transcripts by the board of educational examiners' staff to determine if all Iowa requirements have been met. The applicant must submit documentation that all of the Iowa requirements have been met by filing transcripts and supporting documentation for review. The fee for the transcript evaluation is in 282—Chapter 12. This fee shall be in addition to the fee for adding the endorsement.

*b.* *Additional requirements for adding an endorsement.*

(1) In addition to meeting the requirements listed in rules 282—13.18(272) and 282—13.28(272), applicants for endorsements shall have completed a methods class appropriate for teaching the general subject area of the endorsement added.

(2) Practitioners who are adding an elementary or early childhood endorsement and have not student taught on the elementary or early childhood level shall complete a teaching practicum appropriate for teaching at the level of the new endorsement.

(3) Practitioners who are adding a secondary teaching endorsement and have not student taught on the secondary level shall complete a teaching practicum appropriate for teaching at the level of the new endorsement.

(4) Practitioners holding the K-8 endorsement in the content area of the 5-12 endorsement being added may satisfy the requirement for the secondary methods class and the teaching practicum by completing all required coursework and presenting verification of competence. This verification of competence shall be signed by a licensed evaluator who has observed and formally evaluated the performance of the applicant at the secondary level. This verification of competence may be submitted at any time during the term of the Class B license. The practitioner must obtain a Class B license while practicing with the 5-12 endorsement.

**13.29(2)** *Removal of an endorsement; reinstatement of removed endorsement.*

*a.* *Removal of an endorsement.* A practitioner may remove an endorsement from the practitioner's license as follows:

(1) To remove an endorsement, the practitioner shall meet the following conditions:

1. A practitioner who holds a standard or master educator license is eligible to request removal of an endorsement from the license if the practitioner has not taught in the subject or assignment area of the endorsement in the five years prior to the request for removal of the endorsement, and

2. The practitioner must submit a notarized written application form furnished by the board of educational examiners to remove an endorsement at the time of licensure renewal (licensure renewal is limited to one calendar year prior to the expiration date of the current license), and

3. The application must be signed by the superintendent or designee in the district in which the practitioner is under contract. The superintendent's signature shall serve as notification and acknowledgment of the practitioner's intent to remove an endorsement from the practitioner's license. The absence of the superintendent's or designee's signature does not impede the removal process.

(2) The endorsement shall be removed from the license at the time of application.

(3) If a practitioner is not employed and submits an application, the provisions of 13.29(2)*"a"*(1)"3" shall not be required.

(4) If a practitioner submits an application that does not meet the criteria listed in 13.29(2)*"a"*(1)"1" to "3," the application will be rendered void and the practitioner will forfeit the processing fee.

(5) The executive director has the authority to approve or deny the request for removal. Any denial is subject to the appeal process set forth in rule 282—11.35(272).

*b. Reinstatement of a removed endorsement.*

(1) If the practitioner wants to add the removed endorsement at a future date, all coursework for the endorsement must be completed within the five years preceding the application to add the endorsement.

(2) The practitioner must meet the current endorsement requirements when making application.

[**ARC 8248B**, IAB 11/4/09, effective 10/12/09]

**282—13.30(272) Licenses—issue dates, corrections, duplicates, and fraud.**

**13.30(1)** *Issue date on original license.* A license is valid only from and after the date of issuance.

**13.30(2)** *Correcting licenses.* If a licensee notifies board staff of a typographical or clerical error on the license within 30 days of the date of the board's mailing of a license, a corrected license shall be issued without charge to the licensee. If notification of a typographical or clerical error is made more than 30 days after the date of the board's mailing of a license, a corrected license shall be issued upon receipt of the fee for issuance of a duplicate license. For purposes of this rule, typographical or clerical errors include misspellings, errors in the expiration date of a license, errors in the type of license issued, and the omission or misidentification of the endorsements for which application was made. A licensee requesting the addition of an endorsement not included on the initial application must submit a new application and the appropriate application fee.

**13.30(3)** *Duplicate licenses.* Upon application and payment of the fee set out in 282—Chapter 12, a duplicate license shall be issued.

**13.30(4)** *Fraud in procurement or renewal of licenses.* Fraud in procurement or renewal of a license or falsifying records for licensure purposes will constitute grounds for filing a complaint with the board of educational examiners.

These rules are intended to implement Iowa Code chapter 272 and 2014 Iowa Acts, chapter 1116, division VI.

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# CHAPTER 14
# SPECIAL EDUCATION ENDORSEMENTS
[Prior to 1/14/09, see Educational Examiners Board[282] Ch 15]

**282—14.1(272) Special education teaching endorsements.**

**14.1(1)** *Program requirements.*

*a.* The applicant must meet the requirement in rules 282—13.1(272) and 282—13.5(272).

*b.* The applicant must complete pre-student teaching field-based experiences in special education.

*c.* Student teaching. Each applicant for an Iowa license with a special education instructional endorsement must file evidence of completing an approved student teaching program in special education. This experience must be full-time in an approved special education classroom. An approved special education classroom is one which is recognized by the state in terms of the respective state rules for special education. This special education student teaching experience shall qualify for each special education instructional endorsement sought on an original application for Iowa licensure if at the same grade level.

*d.* The applicant must meet the requirements to add an endorsement in rule 282—13.29(272).

**14.1(2)** *Adding special education instructional endorsements to Iowa licenses.*

*a.* After the issuance of a practitioner license, an individual may add other special education instructional endorsements to that license upon proper application provided current requirements for the specific endorsement(s) have been met.

*b.* If an applicant is seeking to add a special education instructional endorsement at the same level, elementary or secondary, as other endorsements held, the student teaching component set out in the rules for added endorsement areas is not required.

*c.* If the applicant holds the K-8 special education endorsement for the 5-12 endorsement area being added, the applicant may satisfy the requirements for the secondary methods class and the student teaching experience by completing all the required coursework and presenting verification of competence of teaching a minimum of two years while properly licensed. This verification of competence shall be signed by a licensed evaluator who has observed and formally evaluated the performance of the applicant at the secondary level.

*d.* An updated license with expiration date unchanged from the original or renewed license will be prepared. Licensure procedures and requirements are set out in 282—Chapter 13.

[**ARC 8248B**, IAB 11/4/09, effective 10/12/09]

**282—14.2(272) Specific requirements.** For each of the following teaching endorsements in special education, the applicant must have completed 24 semester hours in special education.

**14.2(1)** *Early childhood—special education.*

*a.* This endorsement authorizes instruction at the PK-K level only for instructional special education programs without regard to the instructional model.

*b.* The applicant must present evidence of having completed the following program requirements.

(1) Foundations of special education. The philosophical, historical and legal bases for special education, including the definitions and etiologies of individuals with disabilities, exceptional child, and including individuals from culturally and linguistically diverse backgrounds.

(2) Characteristics of learners. Preparation which includes an overview of current trends in educational programming and theories of child development, both typical and atypical; the identification of pre-, peri-, and postnatal development and factors that affect children's development and learning. Identification of specific disabilities, including the etiology, characteristics, and classification of common disabilities in young children. Application of the knowledge of cultural and linguistic diversity and the significant sociocultural context for the development of and learning in young children.

(3) Assessment, diagnosis and evaluation. Legal provisions, regulations and guidelines regarding unbiased assessment and use of psychometric instruments and instructional assessment measures with individuals with disabilities. Application of assessment results to individualized program development and management, and the relationship between assessment and placement decisions. Knowledge of any specialized strategies such as functional behavioral assessment and any specialized terminology

used in the assessment of various disabling conditions. Assess children's cognitive, social-emotional, communication, motor, adaptive, and aesthetic development; and select, adapt, and administer assessment instruments and procedures for specific sensory and motor disabilities.

(4) Methods and strategies. Methods and strategies which include numerous models to plan and implement appropriate curricular and instructional practices based on knowledge of individual children, the family, the community, and curricular goals and content. Select intervention curricula and methods for children with specific disabilities including motor, sensory, health, communication, social-emotional and cognitive disabilities. Implement developmentally and functionally appropriate individual and group activities using a variety of formats; develop and implement an integrated curriculum that focuses on special education children from birth to age six, and incorporate information and strategies from multiple disciplines in the design of intervention strategies. Curricula for the development of cognitive, academic, social, language and functional life skills for individuals with exceptional learning needs, and related instructional and remedial methods and techniques, including appropriate assistive technology. This preparation must include alternatives for teaching skills and strategies to individuals with disabilities who differ in degree and nature of disability, and the integration of appropriate age- and ability-level academic instruction.

(5) Managing student behavior and social interaction skills. Preparation in individual behavioral management, behavioral change strategies, and classroom management theories, methods, and techniques for individuals with exceptional learning needs. Theories of behavior problems in individuals with disabilities and the use of nonaversive techniques for the purpose of controlling targeted behavior and maintaining attention of individuals with disabilities. Design, implement, and evaluate instructional programs that enhance an individual's social participation in family, school, and community activities.

(6) Communication and collaborative partnerships. Awareness of the sources of unique services, networks, and organizations for individuals with disabilities including transitional support. Knowledge of family systems, family dynamics, parent rights, advocacy, multicultural issues, and communication to invite and appreciate many different forms of parent involvement. Strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the educational program. Knowledge of the collaborative and consultative roles of special education teachers in the integration of individuals with disabilities into the general curriculum and classroom.

(7) Student teaching. Student teaching in a PK-K special education program.

**14.2(2)** *Instructional strategist I: mild and moderate.*

*a. Option 1—K-8 mild and moderate.* This endorsement authorizes instruction in all K-8 mild and moderate instructional special education programs without regard to the instructional model. An applicant for this option must complete the following requirement and must hold a regular education endorsement. See rule 282—13.26(272). The applicant must present evidence of having completed the following program requirements.

(1) Foundations of special education. The philosophical, historical and legal bases for special education, including the definitions and etiologies of individuals with disabilities, exceptional child, and including individuals from culturally and linguistically diverse backgrounds.

(2) Characteristics of learners. Preparation which includes various etiologies of mild and moderate disabilities, an overview of current trends in educational programming for mild and moderate disabilities, educational alternatives and related services, and the importance of the multidisciplinary team in providing more appropriate educational programming, and includes the general developmental, academic, social, career and functional characteristics of individuals with mild and moderate disabilities as the characteristics relate to levels of instructional support required, and the psychological and social-emotional characteristics of individuals with mild and moderate disabilities.

(3) Assessment, diagnosis and evaluation. Legal provisions, regulations and guidelines regarding unbiased assessment and use of psychometric instruments and instructional assessment measures with individuals with disabilities. Application of assessment results to individualized program development and management, and the relationship between assessment and placement decisions. Knowledge of any specialized strategies such as functional behavioral assessment and any specialized terminology used in the assessment of various disabling conditions.

(4) Methods and strategies. Methods and strategies which include numerous models for providing curricular and instructional methodologies utilized in the education of the mildly and moderately disabled, and sources of curriculum materials for individuals with disabilities. Curricula for the development of cognitive, academic, social, language and functional life skills for individuals with exceptional learning needs, and related instructional and remedial methods and techniques, including appropriate assistive technology. The focus of these experiences is for students at the K-8 level. This preparation must include alternatives for teaching skills and strategies to individuals with disabilities who differ in degree and nature of disability, and the integration of appropriate age- and ability-level academic instruction.

(5) Managing student behavior and social interaction skills. Preparation in individual behavioral management, behavioral change strategies, and classroom management theories, methods, and techniques for individuals with exceptional learning needs. Theories of behavior problems in individuals with disabilities and the use of nonaversive techniques for the purpose of controlling targeted behavior and maintaining attention of individuals with disabilities. Design, implement, and evaluate instructional programs that enhance an individual's social participation in family, school, and community activities.

(6) Communication and collaborative partnerships. Awareness of the sources of unique services, networks, and organizations for individuals with disabilities including transitional support. Knowledge of family systems, family dynamics, parent rights, advocacy, multicultural issues, and communication to invite and appreciate many different forms of parent involvement. Strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the educational program. Knowledge of the collaborative and consultative roles of special education teachers in the integration of individuals with disabilities into the general curriculum and classroom.

(7) Student teaching. Student teaching in a K-8 mild and moderate special education program.

*b. Option 2—K-8 mild and moderate.* To obtain this endorsement, the applicant must hold a valid Iowa license with either a K-8 or 5-12 special education instructional endorsement and must meet the following basic requirements in addition to those set out in paragraph 14.2(2)*"a."*

(1) Child growth and development with emphasis on the emotional, physical, and mental characteristics of elementary age children, unless completed as part of the professional education core. See rule 282—13.18(272).

(2) Methods and materials for teaching elementary language arts.

(3) Remedial reading.

(4) Elementary curriculum methods and material, unless completed as part of another elementary level endorsement program (e.g., rule 282—13.26(272) or a similar elementary endorsement program).

(5) Methods and materials for teaching elementary mathematics.

*c. Option 1—5-12 mild and moderate.* This endorsement authorizes instruction in all 5-12 mild and moderate instructional special education programs without regard to the instructional model. An applicant for this option must complete the following requirements and must hold a regular education endorsement. See rule 282—13.28(272). The applicant must present evidence of having completed the following program requirements.

(1) Foundations of special education. The philosophical, historical and legal bases for special education, including the definitions and etiologies of individuals with disabilities, exceptional child, and including individuals from culturally and linguistically diverse backgrounds.

(2) Characteristics of learners. Preparation which includes various etiologies of mild and moderate disabilities, an overview of current trends in educational programming for mild and moderate disabilities, educational alternatives and related services, and the importance of the multidisciplinary team in providing more appropriate educational programming, and includes the general developmental, academic, social, career and functional characteristics of individuals with mild and moderate disabilities as the characteristics relate to levels of instructional support required, and the psychological and social-emotional characteristics of individuals with mild and moderate disabilities.

(3) Assessment, diagnosis and evaluation. Legal provisions, regulations and guidelines regarding unbiased assessment and use of psychometric instruments and instructional assessment measures with individuals with disabilities. Application of assessment results to individualized program development

and management, and the relationship between assessment and placement decisions. Knowledge of any specialized strategies such as functional behavioral assessment and any specialized terminology used in the assessment of various disabling conditions.

(4) Methods and strategies. Methods and strategies which include numerous models for providing curricular and instructional methodologies utilized in the education of the mildly and moderately disabled, and sources of curriculum materials for individuals with disabilities. Curricula for the development of cognitive, academic, social, language and functional life skills for individuals with exceptional learning needs, and related instructional and remedial methods and techniques, including appropriate assistive technology. The focus of these experiences is for students at the 5-12 level. This preparation must include alternatives for teaching skills and strategies to individuals with disabilities who differ in degree and nature of disability, and the integration of appropriate age- and ability-level academic instruction.

(5) Managing student behavior and social interaction skills. Preparation in individual behavioral management, behavioral change strategies, and classroom management theories, methods, and techniques for individuals with exceptional learning needs. Theories of behavior problems in individuals with disabilities and the use of nonaversive techniques for the purpose of controlling targeted behavior and maintaining attention of individuals with disabilities. Design, implement, and evaluate instructional programs that enhance an individual's social participation in family, school, and community activities.

(6) Communication and collaborative partnerships. Awareness of the sources of unique services, networks, and organizations for individuals with disabilities including transitional support. Knowledge of family systems, family dynamics, parent rights, advocacy, multicultural issues, and communication to invite and appreciate many different forms of parent involvement. Strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the educational program. Knowledge of the collaborative and consultative roles of special education teachers in the integration of individuals with disabilities into the general curriculum and classroom.

(7) Transitional collaboration. Sources of services, organizations, and networks for individuals with mild and moderate disabilities, including career, vocational and transitional support to postschool settings with maximum opportunities for decision making and full participation in the community.

(8) Student teaching. Student teaching in a 5-12 mild and moderate special education program.

*d. Option 2—5-12 mild and moderate.* To obtain this endorsement, the applicant must hold a valid Iowa license with either a K-8 or 5-12 special education instructional endorsement and must meet the following basic requirements in addition to those set out in paragraph 14.2(2)*"c."*

(1) Adolescent growth and development with emphasis on the emotional, physical, and mental characteristics of adolescent age children, unless completed as part of the professional education core. See rule 282—13.18(272).

(2) Adolescent reading or secondary content area reading.

(3) Secondary or adolescent reading diagnosis and remediation.

(4) Methods and materials for teaching adolescents with mathematics difficulties or mathematics for the secondary level special education teacher.

(5) Secondary methods unless completed as part of the professional education core. See 282—paragraph 13.18(4)*"l."*

**14.2(3)** *Instructional strategist II: behavior disorders/learning disabilities.* This endorsement authorizes instruction in programs serving students with behavior disorders and learning disabilities from age 5 to age 21 (and to a maximum allowable age in accordance with Iowa Code section 256B.8). The applicant must present evidence of having completed the following program requirements.

*a. Foundations of special education.* The philosophical, historical and legal bases for special education, including the definitions and etiologies of individuals with disabilities, exceptional child, and including individuals from culturally and linguistically diverse backgrounds.

*b. Characteristics of learners.* Preparation which includes various etiologies of behavior disorders and learning disabilities, an overview of current trends in educational programming for students with behavior disorders and learning disabilities, educational alternatives and related services, and the importance of the multidisciplinary team in providing more appropriate educational

programming from age 5 to age 21. Preparation in the social, emotional and behavioral characteristics of individuals with behavior disorders and learning disabilities including the impact of such characteristics on classroom learning as well as associated domains such as social functioning and at-risk behaviors which may lead to involvement with the juvenile justice or mental health system. Preparation in the psychological and social-emotional characteristics of individuals with behavior disorders and learning disabilities must include the major social characteristics of individuals with behavior disorders and the effects of dysfunctional behavior on learning, and the social and emotional aspects of individuals with learning disabilities including social imperceptiveness and juvenile delinquency. Physical development, physical disability and health impairments as they relate to the development and behavior of students with behavior disorders and the medical factors influencing individuals with learning disabilities, including intelligence, perception, memory and language development.

*c. Assessment, diagnosis and evaluation.* Legal provisions, regulations and guidelines regarding unbiased assessment and use of psychometric instruments and instructional assessment measures with individuals with disabilities. Application of assessment results to individualized program development and management, and the relationship between assessment and placement decisions. Knowledge of any specialized strategies such as functional behavioral assessment and any specialized terminology used in the assessment of various disabling conditions.

*d. Methods and strategies.* Methods and strategies which include numerous models for providing curricular and instructional methodologies utilized in the education of behavior and learning disabled students, and sources of curriculum materials for individuals with disabilities. Curricula for the development of cognitive, academic, social, language and functional life skills for individuals with exceptional learning needs, and related instructional and remedial methods and techniques, including appropriate assistive technology. The focus of these experiences is for students at all levels from age 5 to age 21. This preparation must include alternatives for teaching skills and strategies to individuals with disabilities who differ in degree and nature of disability, and the integration of appropriate age- and ability-level academic instruction.

*e. Managing student behavior and social interaction skills.* Preparation in individual behavioral management, behavioral change strategies, and classroom management theories, methods, and techniques for individuals with exceptional learning needs. Theories of behavior problems in individuals with disabilities and the use of nonaversive techniques for the purpose of controlling targeted behavior and maintaining attention of individuals with disabilities. Design, implement, and evaluate instructional programs that enhance an individual's social participation in family, school, and community activities.

*f. Communication and collaborative partnerships.* Awareness of the sources of unique services, networks, and organizations for individuals with disabilities including transitional support. Knowledge of family systems, family dynamics, parent rights, advocacy, multicultural issues, and communication to invite and appreciate many different forms of parent involvement. Strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the educational program. Knowledge of the collaborative and consultative roles of special education teachers in the integration of individuals with disabilities into the general curriculum and classroom.

*g. Transitional collaboration.* Sources of services, organizations, and networks for individuals with behavior and learning disabilities, including career, vocational and transitional support to postschool settings with maximum opportunities for decision making and full participation in the community.

*h. Student teaching.* Student teaching in programs across the age levels of this endorsement. If the student teaching program has a unique age-level emphasis (e.g., K-8 or 5-12), there must be planned activities which incorporate interactive experiences at the other age level.

**14.2(4)** *Instructional strategist II: intellectual disabilities.* This endorsement authorizes instruction in programs serving students with intellectual disabilities from age 5 to age 21 (and to a maximum allowable age in accordance with Iowa Code section 256B.8). The applicant must present evidence of having completed the following program requirements.

*a. Foundations of special education.* The philosophical, historical and legal bases for special education, including the definitions and etiologies of individuals with disabilities, exceptional child, and including individuals from culturally and linguistically diverse backgrounds.

*b. Characteristics of learners.* Preparation which includes various etiologies of intellectual disabilities, an overview of current trends in educational programming for students with intellectual disabilities, educational alternatives and related services, and the importance of the multidisciplinary team in providing more appropriate educational programming from age 5 to age 21. Preparation must also provide for an overview of the general developmental, academic, social, career and functional characteristics of individuals with intellectual disabilities as the characteristics relate to levels of instructional support required. This preparation must include the causes and theories of intellectual disabilities and implications and preventions; the psychological characteristics of students with intellectual and developmental disabilities, including cognition, perception, memory, and language development; medical complications and implications for student support needs, including seizure management, tube feeding, catheterization and CPR; and the medical aspects of intellectual disabilities and their implications for learning. The social-emotional aspects of intellectual disabilities, including adaptive behavior, social competence, social isolation and learned helplessness.

*c. Assessment, diagnosis and evaluation.* Legal provisions, regulations and guidelines regarding unbiased assessment and use of psychometric instruments and instructional assessment measures with individuals with disabilities. Application of assessment results to individualized program development and management, and the relationship between assessment and placement decisions. Knowledge of any specialized strategies such as functional behavioral assessment and any specialized terminology used in the assessment of various disabling conditions.

*d. Methods and strategies.* Methods and strategies which include numerous models for providing curricular and instructional methodologies utilized in the education of intellectually disabled students, and sources of curriculum materials for individuals with disabilities. Curricula for the development of cognitive, academic, social, language and functional life skills for individuals with exceptional learning needs, and related instructional and remedial methods and techniques. The focus of these experiences is for students at all levels from age 5 to age 21. This preparation must include alternatives for teaching skills and strategies to individuals with disabilities who differ in degree and nature of disability, and the integration of appropriate age- and ability-level academic instruction. Proficiency in adapting age-appropriate curriculum to facilitate instruction within the general education setting, to include partial participation of students in tasks, skills facilitation, collaboration, and support from peers with and without disabilities; the ability to select and use augmentative and alternative communications methods and systems. An understanding of the impact of speech-language development on behavior and social interactions. Approaches to create positive learning environments for individuals with special needs and approaches to utilize assistive devices for individuals with special needs. The design and implementation of age-appropriate instruction based on the adaptive skills of students with intellectual disabilities; integrate selected related services into the instructional day of students with intellectual disabilities. Knowledge of culturally responsive functional life skills relevant to independence in the community, personal living, and employment. Use of appropriate physical management techniques including positioning, handling, lifting, relaxation, and range of motion and the use and maintenance of orthotic, prosthetic, and adaptive equipment effectively.

*e. Managing student behavior and social interaction skills.* Preparation in individual behavioral management, behavioral change strategies, and classroom management theories, methods, and techniques for individuals with exceptional learning needs. Theories of behavior problems in individuals with intellectual disabilities and the use of nonaversive techniques for the purpose of controlling targeted behavior and maintaining attention of individuals with disabilities. Design, implement, and evaluate instructional programs that enhance an individual's social participation in family, school, and community activities.

*f. Communication and collaborative partnerships.* Awareness of the sources of unique services, networks, and organizations for individuals with disabilities including transitional support. Knowledge of family systems, family dynamics, parent rights, advocacy, multicultural issues, and communication to invite and appreciate many different forms of parent involvement. Strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the

educational program. Knowledge of the collaborative and consultative roles of special education teachers in the integration of individuals with disabilities into the general curriculum and classroom.

*g. Transitional collaboration.* Sources of services, organizations, and networks for individuals with intellectual disabilities, including career, vocational and transitional support to postschool settings with maximum opportunities for decision making and full participation in the community.

*h. Student teaching.* Student teaching in programs across the age levels of this endorsement. If the student teaching program has a unique age-level emphasis (e.g., K-8 or 5-12), there must be planned activities which incorporate interactive experiences at the other age level.

**14.2(5)** *Instructional strategist II: physical disabilities.* This endorsement authorizes instruction in programs serving students with physical disabilities from age 5 to age 21 (and to a maximum allowable age in accordance with Iowa Code section 256B.8). The applicant must present evidence of having completed the following program requirements.

*a. Foundations of special education.* The philosophical, historical and legal bases for special education, including the definitions and etiologies of individuals with disabilities, exceptional child, and including individuals from culturally and linguistically diverse backgrounds.

*b. Characteristics of learners.* Preparation which includes various etiologies and characteristics of physical disabilities across the life span, secondary health care issues that accompany specific physical disabilities, an overview of current trends in educational programming for students with physical disabilities, educational alternatives and related services, and the importance of the multidisciplinary team in providing more appropriate educational programming from age 5 to age 21. Preparation must also provide for an overview of the general developmental, academic, social, career and functional characteristics of individuals with physical disabilities as the characteristics relate to levels of instructional support required.

*c. Assessment, diagnosis and evaluation.* Legal provisions, regulations and guidelines regarding unbiased assessment and use of psychometric instruments and instructional assessment measures with individuals with disabilities. Application of assessment results to individualized program development and management, and the relationship between assessment and placement decisions. Knowledge of any specialized strategies such as functional behavioral assessment and any specialized terminology used in the assessment of various disabling conditions.

*d. Methods and strategies.*

(1) Methods and strategies which include numerous models for providing curricular and instructional methodologies utilized in the education of physically disabled students, and sources of curriculum materials for individuals with disabilities. Curricula for the development of cognitive, academic, social, language and functional life skills for individuals with exceptional learning needs, and related instructional and remedial methods and techniques. The focus of these experiences is for students at all levels from age 5 to age 21. This preparation must include alternatives for teaching skills and strategies to individuals with disabilities who differ in degree and nature of disability, and the integration of appropriate age- and ability-level academic instruction.

(2) Research-supported instructional practices, strategies, and adaptations necessary to accommodate the physical and communication characteristics of students with physical disabilities, including appropriate assistive technology and alternative positioning to permit students with physical disabilities full participation and access to the general curriculum as well as social environments. Design and implement an instructional program that addresses instruction in independent living skills, vocational skills, and career education for students with physical disabilities and instructional strategies for medical self-management procedures by students.

*e. Managing student behavior and social interaction skills.* Preparation in individual behavioral management, behavioral change strategies, and classroom management theories, methods, and techniques for individuals with exceptional learning needs. Theories of behavior problems in individuals with physical disabilities and the use of nonaversive techniques for the purpose of controlling targeted behavior and maintaining attention of individuals with disabilities. Design, implement, and evaluate instructional programs that enhance an individual's social participation in family, school, and community activities.

*f.* *Communication and collaborative partnerships.* Awareness of the sources of unique services, networks, and organizations for individuals with disabilities including transitional support. Knowledge of family systems, family dynamics, parent rights, advocacy, multicultural issues, and communication to invite and appreciate many different forms of parent involvement. Strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the educational program. Knowledge of the collaborative and consultative roles of special education teachers in the integration of individuals with disabilities into the general curriculum and classroom.

*g.* *Transitional collaboration.* Sources of services, organizations, and networks for individuals with physical disabilities, including career, vocational and transitional support to postschool settings with maximum opportunities for decision making and full participation in the community.

*h.* *Student teaching.* Student teaching in programs across the age levels of this endorsement. If the student teaching program has a unique age-level emphasis (e.g., K-8 or 5-12), there must be planned activities which incorporate interactive experiences at the other age level.

**14.2(6)** *K-8 mildly disabled endorsement.* This endorsement authorizes instruction to mildly disabled children who require special education program adaptations while assigned to a regular classroom for basic instructional purposes, or mildly disabled students placed in a special education class who receive part of their instruction in a regular classroom, or mildly disabled students requiring specially designed instruction while assigned to a regular classroom for basic instructional purposes. To fulfill the requirements for this endorsement, the applicant must:

*a.* Hold a regular education instruction endorsement at the elementary level. For the elementary level, this is the general elementary classroom endorsement.

*b.* Hold one of the following endorsements at the elementary level: learning disabilities, mild to moderate intellectual disabilities, behavioral disorders, multicategorical resource room or multicategorical-special class with integration.

**14.2(7)** *5-12 mildly disabled endorsement.* This endorsement authorizes instruction to mildly disabled children who require special education program adaptations while assigned to a regular classroom for basic instructional purposes, or mildly disabled students placed in a special education class who receive part of their instruction in a regular classroom, or mildly disabled students requiring specially designed instruction while assigned to a regular classroom for basic instructional purposes. To fulfill the requirements for this endorsement, the applicant must:

*a.* Hold a regular education instruction endorsement at the secondary level (grades 5-12).

*b.* Hold one of the following endorsements at the secondary level: learning disabilities, mild to moderate intellectual disabilities, behavioral disorders, multicategorical resource room or multicategorical-special class with integration.

NOTE: These endorsements are designed for programs serving primarily mildly disabled students; the sensory impaired are not included as "mildly disabled."

**14.2(8)** *Deaf or hard of hearing endorsement.*

*a.* *Option 1.* This endorsement authorizes instruction in programs serving students with hearing loss from birth to age 21 (and to a maximum allowable age in accordance with Iowa Code section 256B.8). An applicant for this option must complete the following requirements and must have completed an approved program in teaching the deaf or hard of hearing from a recognized Iowa or non-Iowa institution and must hold a regular education endorsement. See 282—Chapter 13.

(1) Foundations of special education. The philosophical, historical and legal bases for special education, including the definitions and etiologies of individuals with disabilities, and including individuals from culturally and linguistically diverse backgrounds.

(2) Characteristics of learners. Preparation which includes various etiologies of hearing loss, an overview of current trends in educational programming for students with hearing loss and educational alternatives and related services, and the importance of the multidisciplinary team in providing more appropriate educational programming from birth to age 21. Preparation in the social, emotional and behavioral characteristics of individuals with hearing loss, including the impact of such characteristics on classroom learning. Knowledge of the anatomy and physiology of the hearing mechanism and knowledge of the development of secondary senses when hearing is impaired, effect of hearing loss on

learning experiences, psychological aspects of hearing loss, and effects of medications on the hearing system. Preparation in the psychological and social-emotional characteristics of individuals with hearing loss to include the major social characteristics of individuals with hearing loss and the effects of this disability on learning, and the social and emotional aspects of individuals with hearing loss. Physical development and potential health impairments as they relate to the development and behavior of students with hearing loss. Components of linguistic and nonlinguistic communication used by individuals who are deaf or hard-of-hearing and communication modes used by and with individuals who are deaf or hard-of-hearing, including current theories of language development in individuals who are deaf or hard-of-hearing.

(3) Assessment, diagnosis and evaluation. Legal provisions, regulations and guidelines regarding unbiased assessment and use of psychometric instruments and instructional assessment measures with individuals with disabilities, including necessary alternative assessment techniques arising out of the nature of the disability and medical reports and other related diagnostic information. Application of assessment results to individualized program development and management, and the relationship between assessment and placement decisions. Knowledge of any specialized strategies such as functional behavioral assessment and any specialized terminology used in the assessment of various disabling conditions.

(4) Methods and strategies. Methods and strategies which include numerous models for providing curricular and instructional methodologies utilized in the education of students who are deaf or hard-of-hearing and sources of specialized materials for individuals who are deaf or hard-of-hearing. These strategies must include knowledge of teaching academic subjects and language and speech to students who are deaf or hard-of-hearing and have knowledge of American Sign Language. Curricula for the development of cognitive, academic, social, language and functional life skills for individuals who are deaf or hard-of-hearing, and related instructional and remedial methods and techniques, including appropriate assistive technology. The focus of these experiences is for students at all levels from birth to age 21. This preparation must include alternatives for teaching skills and strategies to individuals who are deaf or hard-of-hearing who differ in degree and nature of disability, and the integration of appropriate age- and ability-level academic instruction. Strategies for teaching technology skills and other instructional aids for students who are deaf or hard-of-hearing.

(5) Managing student behavior and social interaction skills. Preparation in individual behavioral management, behavioral change strategies, and classroom management theories, methods, and techniques for individuals with exceptional learning needs. Theories of behavior problems in individuals with disabilities and the use of nonaversive techniques for the purpose of controlling targeted behavior and maintaining attention of individuals with disabilities. Design, implement, and evaluate instructional programs that enhance an individual's social participation in family, school, and community activities.

(6) Communication and collaborative partnerships. Awareness of the sources of unique services, networks, and organizations for individuals with disabilities, including transitional support. Knowledge of family systems, family dynamics, parent rights, advocacy, multicultural issues, and communication to invite and appreciate many different forms of parent involvement. Strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the educational program. Knowledge of the collaborative and consultative roles of special education teachers in the integration of individuals with disabilities into the general curriculum and classroom.

(7) Transitional collaboration. Sources of services, organizations, and networks for individuals who are deaf or hard-of-hearing, including career, vocational and transitional support to postschool settings with maximum opportunities for decision making and full participation in the community.

(8) Student teaching. Student teaching in programs across the age levels of this endorsement. If the student teaching program has a unique age-level emphasis (e.g., K-8 or 5-12), there must be planned activities which incorporate interactive experiences at the other age level.

*b.* *Option 2.* An applicant who holds an endorsement in deaf or hard of hearing issued in another state or who is eligible for such an endorsement but who does not also hold or is not eligible for a regular education endorsement in Iowa (see 282—Chapter 13) must meet the following basic requirements in addition to those set out in paragraph 14.2(8)*"a."*

(1) Child growth and development with emphasis on the emotional, physical, and mental characteristics of elementary age children unless completed as part of the professional education core. See 282—Chapter 13.

(2) Methods and materials of teaching elementary language arts.

(3) Methods and materials of teaching elementary reading.

(4) Elementary curriculum methods and materials unless completed as part of another elementary level endorsement program (e.g., rule 282—13.26(272) or a similar elementary endorsement program).

(5) Methods and materials of teaching elementary mathematics.

(6) Adolescent growth and development with emphasis on the emotional, physical, and mental characteristics of adolescent age children unless completed as part of the professional education core. See 282—subrule 13.18(4).

(7) Adolescent literacy or secondary content area reading.

(8) Secondary methods unless completed as part of the professional education core. See 282—paragraph 13.18(4)*"l."*

**14.2(9)** *Visually disabled endorsement.*

*a. Option 1.* This endorsement authorizes instruction in programs serving students with visual disabilities from birth to age 21 (and to a maximum allowable age in accordance with Iowa Code section 256B.8). An applicant for this option must complete the following requirements and must have completed an approved program in visual disabilities from a recognized Iowa or non-Iowa institution and must hold a regular education endorsement. See 282—Chapter 13.

(1) Foundations of special education. The philosophical, historical and legal bases for special education, including the definitions and etiologies of individuals with disabilities, and including individuals from culturally and linguistically diverse backgrounds.

(2) Characteristics of learners. Preparation which includes various etiologies of visual impairment, an overview of current trends in educational programming for students with visual disabilities and educational alternatives and related services, and the importance of the multidisciplinary team in providing more appropriate educational programming from birth to age 21. Preparation in the social, emotional and behavioral characteristics of individuals with visual disabilities, including the impact of such characteristics on classroom learning. Development of the human visual system, development of secondary senses when vision is impaired, effect of visual disability on development, impact of visual disability on learning and experiences, psychological aspects of visual disability, and effects of medications on the visual system. Preparation in the psychological and social-emotional characteristics of individuals with visual disabilities to include the major social characteristics of individuals with visual disabilities and the effects of this disability on learning, and the social and emotional aspects of individuals with visual disabilities. Physical development and potential health impairments as they relate to the development and behavior of students with visual disabilities.

(3) Assessment, diagnosis and evaluation. Legal provisions, regulations and guidelines regarding unbiased assessment and use of psychometric instruments and instructional assessment measures with individuals with disabilities, including necessary alternative assessment techniques arising out of the nature of the disability and medical reports and other related diagnostic information. Application of assessment results to individualized program development and management, and the relationship between assessment and placement decisions. Knowledge of any specialized strategies such as functional behavioral assessment and any specialized terminology used in the assessment of various disabling conditions.

(4) Methods and strategies. Methods and strategies which include numerous models for providing curricular and instructional methodologies utilized in the education of visually disabled students and sources of curriculum materials for individuals with disabilities. These strategies must include knowledge of teaching Braille reading and writing, the skill in teaching handwriting and signature writing to individuals with low vision or who are blind, listening and compensatory auditory skills and typing and keyboarding skills. Curricula for the development of cognitive, academic, social, language and functional life skills for individuals with visual disabilities, and related instructional and remedial methods and techniques, including appropriate assistive technology. The focus of these

experiences is for students at all levels from birth to age 21. This preparation must include alternatives for teaching skills and strategies to individuals with visual disabilities who differ in degree and nature of disability, and the integration of appropriate age- and ability-level academic instruction. Strategies for teaching technology skills, other instructional aids for visually disabled students, strategies for teaching organization and study skills, tactual and perceptual skills, adapted physical and recreational skills and strategies for promoting self-advocacy in individuals with visual disabilities and for structured pre-cane orientation and mobility assessment and instruction.

(5) Managing student behavior and social interaction skills. Preparation in individual behavioral management, behavioral change strategies, and classroom management theories, methods, and techniques for individuals with exceptional learning needs. Theories of behavior problems in individuals with disabilities and the use of nonaversive techniques for the purpose of controlling targeted behavior and maintaining attention of individuals with disabilities. Design, implement, and evaluate instructional programs that enhance an individual's social participation in family, school, and community activities.

(6) Communication and collaborative partnerships. Awareness of the sources of unique services, networks, and organizations for individuals with disabilities, including transitional support. Knowledge of family systems, family dynamics, parent rights, advocacy, multicultural issues, and communication to invite and appreciate many different forms of parent involvement. Strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the educational program. Knowledge of the collaborative and consultative roles of special education teachers in the integration of individuals with disabilities into the general curriculum and classroom.

(7) Transitional collaboration. Sources of services, organizations, and networks for individuals with visual disabilities, including career, vocational and transitional support to postschool settings with maximum opportunities for decision making and full participation in the community.

(8) Student teaching. Student teaching in programs across the age levels of this endorsement. If the student teaching program has a unique age-level emphasis (e.g., K-8 or 5-12), there must be planned activities which incorporate interactive experiences at the other age level.

*b.* *Option 2.* An applicant who holds an endorsement for visually disabled issued in another state or who is eligible for such an endorsement but who does not also hold or is not eligible for a regular education endorsement in Iowa (see 282—Chapter 13) must meet the following basic requirements in addition to those set out in paragraph 14.2(9)*"a."*

(1) Child growth and development with emphasis on the emotional, physical, and mental characteristics of elementary age children unless completed as part of the professional education core. See 282—Chapter 13.

(2) Methods and materials of teaching elementary language arts.

(3) Methods and materials of teaching elementary reading.

(4) Elementary curriculum methods and materials unless completed as part of another elementary level endorsement program (e.g., rule 282—13.26(272) or a similar elementary endorsement program).

(5) Methods and materials of teaching elementary mathematics.

(6) Adolescent growth and development with emphasis on the emotional, physical, and mental characteristics of adolescent age children unless completed as part of the professional education core. See 282—subrule 13.18(4).

(7) Adolescent literacy or secondary content area reading.

(8) Secondary methods unless completed as part of the professional education core. See 282—paragraph 13.18(4)*"l."*

**14.2(10)** *K-12 special education.* This endorsement authorizes instruction in all K-12 special education programs without regard to the instructional model for all students identified with disabilities, except students with visual or hearing impairments. The applicant must present evidence of having completed coursework to meet the following program requirements.

*a.* Foundations of special education. To include cultural and instructional characteristics of students with disabilities, current issues, special education law, individualized education plans, history of special education, inclusive practices, and Iowa service delivery models.

*b.* Assessment, diagnosis and evaluation. To include diagnostic, formative, and summative assessments (both general and alternate), adaptive behavior skills, data usage in program decision making, and interpretation of standardized assessment.

*c.* Methods for teaching general education core curriculum. To include one course each in methods for elementary math and literacy.

*d.* Academic methods and strategies. To include evidence-based models for providing instructional methodologies, adaptation, accommodation and intensive interventions of the K-12 general education curriculum for students with disabilities (including concepts reflected in the Iowa Core essential elements for individuals with significant intellectual disabilities). The methodology for remediation of literacy and math skills must be included.

*e.* Preparation in research-based assessment and intervention practices. To include applied behavior analysis (ABA), behavior intervention planning (BIP), cognitive behavioral strategies (e.g., CBM, rational emotive education), de-escalation techniques (e.g., Mandt, CPI), functional behavioral assessment (FBA), and positive behavior interventions and supports (PBIS), in order to increase or promote language and communication development; emotional and social health; positive social interaction, personal satisfaction, and self-determination; decision-making skills; and independent functioning at school and home and in the community.

*f.* Collaborative and transition partnerships. To include awareness of the services, networks, and organizations available including transitional support K-12; preparation in working with parents and families, community agencies, service providers, and support staff including paraeducators; strategies for working with general classroom teachers and knowledge of the collaborative and consultative roles of special education teachers in the integration of individuals with disabilities into the general curriculum and classroom; and special emphasis on transitions of students to postsecondary environments.

*g.* Assistive/instructional technology. To include preparation in the use of assistive and instructional technology to assist students with moderate to significant disabilities to access the core curriculum and address compensatory or individualized needs, including accessible instructional materials.

*h.* Student teaching across all grade levels (K-12) with students with disabilities.

**14.2(11)** *Special education specializations.* Specializations allow the applicant to demonstrate expanded knowledge and skills with specific disability categories. The following specializations are not endorsements and are not required for specific assignments, but may be used by local school districts and nonpublic schools in specific settings. Specializations may be added to a teaching license by the completion of an additional 15 credit hours dedicated to the specialization beyond the special education endorsement requirements.

*a.* Intellectual disabilities: Fifteen credit hours of coursework dedicated to characteristics, instructional methodology, assessment, and transition of K-12 students with intellectual disabilities.

*b.* Autism spectrum disorders: Fifteen credit hours of coursework dedicated to characteristics, instructional methodology, assessment, and transition of K-12 students with autism spectrum disorders.

*c.* Behavioral/emotional disorders: Fifteen credit hours of coursework dedicated to characteristics, instructional methodology, assessment, and transition of K-12 students with behavior/emotional disorders.

*d.* Multiple disabilities: Fifteen credit hours of coursework dedicated to characteristics, instructional methodology, assessment, and transition of K-12 students with multiple disabilities.

*e.* Physical disabilities: Fifteen credit hours of coursework dedicated to characteristics, instructional methodology, assessment, and transition of K-12 students with physical disabilities.

*f.* Learning disabilities: Fifteen credit hours of coursework dedicated to characteristics, instructional methodology, assessment, and transition of K-12 students with learning disabilities.

[**ARC 0450C**, IAB 11/14/12, effective 12/19/12; **ARC 1884C**, IAB 2/18/15, effective 3/25/15]

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# COLLEGE STUDENT AID COMMISSION[283]

[Prior to 8/10/88, see College Aid Commission[245]]


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# CHAPTER 6
# PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

**283—6.1(17A,22) Definitions.** As used in this chapter:

*"Commission"* means the Iowa college student aid commission.

*"Confidential record"* means a record which is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the commission is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7, or other provision of law, but that may be disclosed upon order of a court, the lawful custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

*"Custodian"* means the commission, or a person lawfully delegated authority by the commission to act for the commission in implementing Iowa Code chapter 22.

*"Open record"* means a record other than a confidential record.

*"Personally identifiable information"* means information about or pertaining to an individual in a record which identifies the individual and which is contained in a record system.

*"Record"* means the whole or a part of a "public record," as defined in Iowa Code section 22.1, that is owned by or in the physical possession of the commission.

*"Record system"* means any group of records under the control of the commission from which a record may be retrieved by a personal identifier such as the name of an individual, number, symbol, or other unique retriever assigned to an individual.

**283—6.2(17A,22) Statement of policy.** The purpose of this chapter is to facilitate broad public access to open records. It also seeks to facilitate sound commission determinations with respect to the handling of confidential records and the implementation of the fair information practices Act. The commission is committed to the policies set forth in Iowa Code chapter 22; commission staff shall cooperate with members of the public in implementing the provisions of that chapter.

**283—6.3(17A,22) Requests for access to records.**

**6.3(1)** *Location of record.* A request for access to a record should be directed to the Executive Director, Iowa College Student Aid Commission, 430 East Grand Avenue, Third Floor, Des Moines, Iowa 50309-1920. If a request for access to a record is misdirected, commission personnel will promptly forward the request to the appropriate person.

**6.3(2)** *Office hours.* Open records shall be made available during all customary office hours, which are 8 a.m. to 4:30 p.m. Monday through Friday, except holidays.

**6.3(3)** *Request for access.* Requests for access to open records may be made in writing, in person, or by telephone. Requests shall identify the particular records sought by name or description in order to facilitate the location of the record. Mail or telephone requests shall include the name, address, and telephone number of the person requesting the information. A person shall not be required to give a reason for requesting an open record.

**6.3(4)** *Response to requests.* Access to an open record shall be provided promptly upon request unless the size or nature of the request makes prompt access infeasible. If the size or nature of the request for access to an open record requires time for compliance, the custodian shall comply with the request as soon as feasible. Access to an open record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4). The custodian shall promptly give notice to the requester of the reason for any delay in access to an open record and an estimate of the length of that delay and, upon request, shall promptly provide that notice to the requester in writing.

The custodian of a record may deny access to the record by members of the public only on the grounds that such a denial is warranted under Iowa Code sections 22.8(4) and 22.10(4), or that it is a confidential record, or that its disclosure is prohibited by a court order. Access by members of the public

to a confidential record is limited by law and, therefore, may generally be provided only in accordance with the provisions of rule 283—6.4(17A,22) and other applicable provisions of law.

**6.3(5)** *Security of record.* No person may, without permission from the custodian, search or remove any record from commission files. Examination and copying of commission records shall be supervised by the custodian or a designee of the custodian. Records shall be protected from damage and disorganization.

**6.3(6)** *Copying.* A reasonable number of copies of an open record may be made in the commission's office. If photocopy equipment is not available in the commission office where an open record is kept, the custodian shall permit its examination in that office and shall arrange to have copies promptly made elsewhere.

**6.3(7)** *Fees.*

*a.* *When charged.* The commission may charge fees in connection with the examination or copying of records only if the fees are authorized by law. To the extent permitted by applicable provisions of law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

*b.* *Copying and postage costs.* Price schedules for published materials and for photocopies of records supplied by the commission shall be prominently posted in commission offices. Copies of records may be made by or for members of the public on commission photocopy machines or from electronic storage systems at cost as determined and posted in commission offices by the custodian. When the mailing of copies of records is requested, the actual costs of such mailing may also be charged to the requester.

*c.* *Supervisory fee.* An hourly fee may be charged for actual commission expenses in supervising the examination and copying of requested records when the supervision time required is in excess of one hour. The custodian shall prominently post in commission offices the hourly fees to be charged for supervision of records during examination and copying. That hourly fee shall not be in excess of the hourly wage of a commission clerical employee who ordinarily would be appropriate and suitable to perform this supervisory function.

*d.* *Advance deposits.*

(1) When the estimated total fee chargeable under this subrule exceeds $25, the custodian may require a requester to make an advance payment to cover all or a part of the estimated fee.

(2) When a requester has previously failed to pay a fee chargeable under this subrule, the custodian may require advance payment of the full amount of any estimated fee before the custodian processes a new request from the requester.

[**ARC 1869C**, IAB 2/18/15, effective 3/25/15]

**283—6.4(17A,22) Access to confidential records.** Under Iowa Code section 22.7 or other applicable provisions of law, the lawful custodian may disclose certain confidential records to one or more members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons. In requesting the custodian to permit the examination and copying of such a confidential record, the following procedures apply and are in addition to those specified for requests for access to records in rule 283—6.3(17A,22).

**6.4(1)** *Proof of identity.* A person requesting access to a confidential record may be required to provide proof of identity or authority to secure access to the record.

**6.4(2)** *Requests.* The custodian may require a request to examine and copy a confidential record to be in writing. A person requesting access to such a record may be required to sign a certified statement or affidavit enumerating the specific reasons justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

**6.4(3)** *Notice to subject of record and opportunity to obtain injunction.* After the custodian receives a request for access to a confidential record, and before the custodian releases such a record, the custodian may make reasonable efforts to notify promptly any person who is a subject of that record, is identified in that record, and whose address or telephone number is contained in that record. To the extent such a delay is practicable and in the public interest, the custodian may give the subject of such a confidential

record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate to the subject of the record the specific period of time during which disclosure will be delayed for that purpose.

**6.4(4)** *Request denied.* When the custodian denies a request for access to a confidential record, the custodian shall promptly notify the requester. If the requester indicates to the custodian that a written notification of the denial is desired, the custodian shall promptly provide such a notification that is signed by the custodian and that includes:

*a.* The name and title or position of the custodian responsible for the denial; and

*b.* A citation to the provision of law vesting authority in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to this requester.

**6.4(5)** *Request granted.* When the custodian grants a request for access to a confidential record to a particular person, the custodian shall notify that person and indicate any lawful restrictions imposed by the custodian on that person's examination and copying of the record.

**283—6.5(17A,22) Requests for treatment of a record as a confidential record and its withholding from examination.** The custodian may treat a record as a confidential record and withhold it from examination only to the extent that the custodian is authorized by Iowa Code section 22.7, another applicable provision of law, or a court order, to refuse to disclose that record to members of the public.

**6.5(1)** *Persons who may request.* Any person who would be aggrieved or adversely affected by disclosure of a record and who asserts that Iowa Code section 22.7, another applicable provision of law, or a court order, authorizes the custodian to treat the record as a confidential record, may request the custodian to treat that record as a confidential record and to withhold it from public inspection.

**6.5(2)** *Request.* A request that a record be treated as a confidential record and be withheld from public inspection shall be in writing and shall be filed with the custodian. The request must set forth the legal and factual basis justifying such confidential record treatment for that record, and the name, address, and telephone number of the person authorized to respond to any inquiry or action of the custodian concerning the request. A person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit enumerating the specific reasons justifying the treatment of that record as a confidential record and to provide any proof necessary to establish relevant facts. Requests for treatment of a record as such a confidential record for a limited time period shall also specify the precise period of time for which that treatment is requested.

A person filing such a request shall, if possible, accompany the request with a copy of the record in question from which those portions for which such confidential record treatment has been requested have been deleted. If the original record is being submitted to the commission by the person requesting such confidential treatment at the time the request is filed, the person shall indicate conspicuously on the original record that all or portions of it are confidential.

**6.5(3)** *Failure to request.* Failure of a person to request confidential record treatment for a record does not preclude the custodian from treating it as a confidential record. However, if a person who has submitted business information to the commission does not request that it be withheld from public inspection under Iowa Code sections 22.7(3) and 22.7(6), the custodian of records containing that information may proceed as if that person has no objection to its disclosure to members of the public.

**6.5(4)** *Timing of decision.* A decision by the custodian with respect to the disclosure of a record to members of the public may be made when a request for its treatment as a confidential record that is not available for public inspection is filed, or when the custodian receives a request for access to the record by a member of the public.

**6.5(5)** *Request granted or deferred.* If a request for such confidential record treatment is granted, or if action on such a request is deferred, a copy of the record from which the matter in question has been deleted and a copy of the decision to grant the request or to defer action upon the request will be made available for public inspection in lieu of the original record. If the custodian subsequently receives a request for access to the original record, the custodian will make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record that is not available for public inspection of the pendency of that subsequent request.

**6.5(6)** *Request denied and opportunity to seek injunction.* If a request that a record be treated as a confidential record and be withheld from public inspection is denied, the custodian shall notify the requester in writing of that determination and the reasons therefor. On application by the requester, the custodian may engage in a good-faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief under the provisions of Iowa Code section 22.8, or other applicable provision of law. However, such a record shall not be withheld from public inspection for any period of time if the custodian determines that the requester had no reasonable grounds to justify the treatment of that record as a confidential record. The custodian shall notify the requester in writing of the time period allowed to seek injunctive relief or the reasons for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period of good-faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, or if a court directs the custodian to treat it as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

**283—6.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records.** Except as otherwise provided by law, a person may file a request with the custodian to review, and to have a written statement of additions, dissents, or objections entered into, a record containing personally identifiable information pertaining to that person. However, this does not authorize a person who is a subject of such a record to alter the original copy of that record or to expand the official record of any commission proceeding. The requester shall send the request to review such a record or the written statement of additions, dissents, or objections to the custodian or to the Iowa college student aid commission. The request to review such a record or the written statement of such a record of additions, dissents, or objections must be dated and signed by the requester, and shall include the current address and telephone number of the requester or the requester's representative.

**283—6.7(17A,22) Consent to disclosure by the subject of a confidential record.** To the extent permitted by any applicable provision of law, a person who is the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to a third party. A request for such a disclosure must be in writing and must identify the particular record or records that may be disclosed, and the particular person or class of persons to whom the record may be disclosed (and, where applicable, the time period during which the record may be disclosed). The person who is the subject of the record and, where applicable, the person to whom the record is to be disclosed, may be required to provide proof of identity. (Additional requirements may be necessary for special classes of records.) Appearance of counsel before the commission on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the commission to disclose records about that person to the person's attorney.

**283—6.8(17A,22) Notice to suppliers of information.** When the commission requests a person to supply information about that person, the commission shall notify the person of the use that will be made of the information, which persons outside the commission might routinely be provided this information, which parts of the requested information are required and which are optional, and the consequences of a failure to provide the information requested. This notice may be given in these rules, on the written form used to collect the information, on a separate fact sheet or letter, in brochures, in formal agreements, in contracts, in handbooks, in manuals, verbally, or by other appropriate means.

**283—6.9(17A,22) Routine use.**

**6.9(1)** Defined. "Routine use" means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

**6.9(2)** To the extent allowed by law, the following are considered routine uses of all commission records:

*a.* Disclosure of officers, employees, and agents of the commission who have a need for the record in the performance of their duties. The custodian of the record may, upon request of an officer or employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

*b.* Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible prosecution, civil court action, or regulatory order.

*c.* Disclosure to the department of inspections and appeals regarding matters in which it performs services or functions on behalf of the commission.

*d.* Transfers of information within the commission, to other state agencies, or to local units of government, as appropriate, to administer the program for which the information is collected.

*e.* Information released to staff of federal and state entities for audit purposes or to determine whether the commission is lawfully operating a program.

*f.* Any disclosure specifically authorized by the statute under which the record is collected or maintained.

**283—6.10(17A,22) Consensual disclosure of confidential records.**

**6.10(1)** *Consent to disclosure by a subject.* The subject may consent in writing to commission disclosure of confidential records as provided in rule 283—6.7(17A,22).

**6.10(2)** *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the commission may be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

**283—6.11(17A,22) Release to subject.** The subject of a confidential record may file a written request to review the subject's confidential records. However, the commission need not release the following records to the subject:

1. The identity of a person providing information to the commission when the information is authorized as confidential pursuant to Iowa Code subsection 22.7(18).
2. The work product of an attorney or otherwise privileged information.
3. Peace officers' investigative reports, except as required by Iowa Code subsection 22.7(5).
4. Those otherwise authorized by law.

**283—6.12(17A,22) Availability of records.** This rule lists the commission records which are open to the public, those which are confidential, and those which are partially open and partially confidential.

Commission records are listed by category, according to the legal basis for confidential treatment (if any). The commission administers federally funded programs, as well as state programs, and is authorized by Iowa Code section 22.9 to enforce confidentiality standards for federal law and regulations as are required for receipt of the funds. A single record may contain information from several categories.

The chart indicates whether the record contains personally identifiable information, and indicates the legal authority for confidentiality and for the collection of personally identifiable information.

Abbreviations are used in the chart as follows:

| Code | Meaning | Code | Meaning |
|---|---|---|---|
| O | The records are open for public inspection. | O/C | The record is partially open and partially confidential. |
| C | The records are confidential and are not open to public inspection. | O/E | The record is partially open to the public and partially exempt from disclosure. |
| E | The record is exempt from mandatory disclosure to members of the public. | O/E/C | The record is partially open to the public, partially exempt from disclosure, and partially confidential and not open to the public. |
| E/C | The record is exempt from mandatory disclosure to the public and is confidential and not open to public inspection. | NA | Not applicable. |

| DESCRIPTION OF RECORD | TYPE OF RECORD | LEGAL AUTHORITY FOR CONFIDENTIALITY | PERSONALLY IDENTIFIABLE INFORMATION | LEGAL AUTHORITY FOR INFORMATION |
|---|---|---|---|---|
| Records of Commission, Advisory Council, and Committees | O/E | Iowa Code 21.5 | No | NA |
| Rule Making | O | NA | No | NA |
| Declaratory Ruling Records | O/C | Iowa Code 22.7 | No | NA |
| Rules and Policy Manuals | O | NA | No | NA |
| General Correspondence | O/E/C | Iowa Code 22.7 | Yes | NA |
| Publications<br>• General<br>• GSL<br>• Scholarship | O | NA | No | NA |
| Statistical Reports | O | NA | No | NA |
| Staff Reports | O | NA | No | NA |
| Financial & Administrative Records | O/E/C | Iowa Code 22.7 | Yes | NA |
| Registration and Approval Records | O | NA | No | NA |
| Contracts and Interagency Agreements | O/C | Iowa Code 22.7(3) | No | NA |
| Sealed Bids Prior to Public Opening | C | Iowa Code 22.3, 22.7 and 72.3 | No | NA |
| Appeal Records | O/C | Iowa Code 22.7 | Yes | NA |
| Litigation Files | O/E/C | Iowa Code 22.7 | Yes | NA |
| Privileged Communication and Products of Attorneys Representing the Commission | E/C | Iowa Code 22.7, Iowa Code of Professional Responsibility for Lawyers, Canon 4 | No | NA |
| Individual Applicant/Recipient Records (such as those collected under the Iowa Tuition Grant and Iowa Vocational-Technical Tuition Grant Programs) | C | Iowa Code 22.7 | Yes | P.L. 89-329 |
| Collections | C | Iowa Code 22.7 | Yes | Sec. 428[b-c] and Sec. 488[c] |
| State and Federal Program Records (such as those maintained under the Iowa Tuition Grant Program and the John R. Justice Student Loan Repayment Program) | O | NA | No | NA |

[**ARC 1869C**, IAB 2/18/15, effective 3/25/15]

These rules are intended to implement Iowa Code section 261.3.

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# CHAPTER 7
# UNIFORM RULES FOR WAIVERS

**283—7.1(261,ExecOrd11,17A) Waiver process.** This chapter outlines a uniform process for granting waivers from rules adopted by the commission.

**7.1(1)** *Commission authority.* A waiver from rules adopted by the commission may be granted in accordance with this chapter if:

*a.* The commission has exclusive rule-making authority to promulgate the rule from which a waiver is requested or has final decision-making authority over a contested case in which a waiver is requested; and

*b.* No statute or rule otherwise controls the granting of a waiver from the rule for which a waiver is requested.

**7.1(2)** *Interpretive rules.* These uniform waiver rules shall not apply to rules defining a statute or other provisions of law or precedent if the commission does not have delegated authority to bind the courts with its definition.

**7.1(3)** *Compliance with statute.* No waiver shall be granted from a requirement that is imposed by statute. Any waiver must be consistent with statute.

**283—7.2(261,ExecOrd11,17A) Definition.** For purposes of this chapter, a waiver means action by the commission which suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person.

**283—7.3(261,ExecOrd11,17A) Scope of chapter.** This chapter outlines generally applicable standards and a uniform process for the granting of individual waivers from rules adopted by the commission in situations where no other more specific applicable law provides for waivers. To the extent another more specific provision of law governs the issuance of a waiver from a particular rule, the more specific provision shall supersede this chapter with respect to any waiver from that rule.

**283—7.4(261,ExecOrd11,17A) Applicability of chapter.** The commission may grant a waiver from a rule only if the commission has jurisdiction over the rule and the requested waiver is consistent with applicable statutes, constitutional provisions, or other provisions of law. The commission may not waive requirements created or duties imposed by statute.

**283—7.5(261,ExecOrd11,17A) Criteria for waiver.** The commission may issue an order, in response to a completed petition or on its own motion, granting a waiver from a rule adopted by the commission, in whole or in part, as applied to the circumstances of a specified person if the commission finds, based on clear and convincing evidence, that:

**7.5(1)** Application of the rule would impose an undue hardship or injustice on the person for whom the waiver is requested; and

**7.5(2)** A waiver of the rule on the basis of the particular circumstances relative to that specified person would be consistent with the public interest; and

**7.5(3)** A waiver of the rule in the specific case would not prejudice the substantial legal rights of any person.

**283—7.6(261,ExecOrd11,17A) Mandatory waivers.** In response to the timely filing of a completed petition requesting a waiver, the commission shall grant a waiver from a rule, in whole or in part, as applied to the particular circumstances of a specified person, if the commission finds that the application of all or a portion of the circumstances of that specified person would not, to any extent, advance or serve any of the purposes of the rule.

**283—7.7(261,ExecOrd11,17A) Burden of persuasion.** The petitioner shall assume the burden of persuasion to demonstrate clear and convincing evidence when a petition is filed for a waiver from a commission rule.

**283—7.8(261,ExecOrd11,17A) Special waiver rule not precluded.** This uniform waiver rule shall not preclude the commission from granting waivers in other contexts or on the basis of other standards if a statute or other commission rule authorizes the commission to do so and the commission deems it appropriate to do so.

**283—7.9(261,ExecOrd11,17A) Administrative deadlines.** When the rule from which a waiver is sought establishes administrative deadlines, the commission shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all persons participating in a particular program offered by the commission.

**283—7.10(261,ExecOrd11,17A) Filing of petition.** A petition for a waiver must be submitted in writing to the commission's Executive Director, 430 East Grand Avenue, Third Floor, Des Moines, Iowa 50309-1920.
[**ARC 1869C**, IAB 2/18/15, effective 3/25/15]

**283—7.11(261,ExecOrd11,17A) Contested case.** If the petition relates to a pending contested case, the petition shall be filed in the contested case proceeding, using the caption of the contested case.

**283—7.12(261,ExecOrd11,17A) Contents of petition.** A petition for waiver shall include the following information where applicable and known to the petitioner:

**7.12(1)** The name, address, telephone number, and social security number of the person or entity for whom a waiver is being requested and the case number of any related contested case, whether pending or closed.

**7.12(2)** A description and citation of the specific rule from which a waiver is requested.

**7.12(3)** The specific waiver requested, including the precise scope and duration.

**7.12(4)** The relevant facts that the petitioner believes would justify a waiver. This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition and a statement of reasons that the petitioner believes will justify a waiver.

**7.12(5)** A history of any prior contacts between the commission and the petitioner. The historical summary shall include:

*a.* A list of all of the programs, contracts, allocations, bond issues, loans, grants, or other activities in which the petitioner has participated or from which the petitioner has received a benefit and which are affected by the proposed waiver.

*b.* A description of each instance when the petitioner has participated in or benefited from any of the commission's programs or contracts, including but not limited to allocations, grants, or loans held by the petitioner, any notices of noncompliance, other administrative events, whether federal or state, contested case hearings, or investigative reports relating to the program, allocation, grant, or loan.

**7.12(6)** Any information known to the petitioner about the commission's treatment of similar cases.

**7.12(7)** The name, address, and telephone number of any person or entity, inside or outside state government, who would be adversely affected by the granting of a petition.

**7.12(8)** The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

**7.12(9)** Signed releases of information authorizing persons with knowledge regarding the request to furnish the commission with information pertaining to the waiver.

**283—7.13(261,ExecOrd11,17A) Additional information.** If the petition for waiver is not filed in a contested case and prior to issuing an order granting or denying a waiver, the executive director may request additional information from the petitioner relative to the petition and circumstances relating to the request for waiver. The request may be in the form of written questions or oral interview. The executive director may interview or direct written questions to other persons in connection with the waiver requested. If the petition was not filed in a contested case, the commission, or its executive director, may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting

between the petitioner and the commission's executive director, a committee of the commission's staff, or a quorum or committee of the commission's board to consider the petition for waiver.

**283—7.14(261,ExecOrd11,17A) Notice.** The commission shall acknowledge a petition upon receipt. The commission shall ensure that notice of the pendency of the petition and a concise summary of its contents have been provided to all persons to whom notice is required by any provision of law within 30 days of the receipt of the petition. In addition, the commission may give notice to other persons. To accomplish this notice provision, the commission may require the petitioner to serve the notice on all persons to whom notice is required and provide a written statement that notice has been provided.

**283—7.15(261,ExecOrd11,17A) Hearing procedures.** The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply to any petition for a waiver filed within a contested case, and shall otherwise apply to commission proceedings for a waiver of a rule only when the commission so provides by rule or order or is required by statute to do so.

**283—7.16(261,ExecOrd11,17A) Ruling.** An order granting or denying a waiver shall be in writing and shall contain a reference to that particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and operative period of the waiver if one is issued.

**283—7.17(261,ExecOrd11,17A) Commission discretion.** The final decision on whether the circumstances justify the granting of a waiver shall be made at the sole discretion of the commission, upon consideration of all relevant factors. Each petition for a waiver shall be evaluated by the commission based on the unique, individual circumstances set out in the petition.

**283—7.18(261,ExecOrd11,17A) Narrowly tailored exception.** A waiver, if granted, shall provide the narrowest exception possible to the provisions of a rule.

**283—7.19(261,ExecOrd11,17A) Conditions.** The commission may condition the granting of a waiver on such reasonable conditions as appropriate to achieve the objectives of the particular rule in question through alternative means.

**283—7.20(261,ExecOrd11,17A) Time period of waiver.** A waiver shall not be permanent unless the petitioner can show that a temporary waiver would be impracticable. If a temporary waiver is granted, there is no automatic right to renewal. At the sole discretion of the commission, a waiver may be renewed if the commission finds that grounds for a waiver continue to exist.

**283—7.21(261,ExecOrd11,17A) Timing for ruling.** The commission shall grant or deny a petition for a waiver as soon as practicable but, in any event, shall do so within 120 days of its receipt, unless the petitioner agrees to a later date. However, if a petition is filed in a contested case proceeding, the commission shall grant or deny the petition no later than the time at which the final decision in the contested case is issued.

**283—7.22(261,ExecOrd11,17A) When deemed denied.** Failure of the commission to grant or deny a petition within the required time period shall be deemed a denial of that petition by the commission. However, the commission shall remain responsible for issuing an order denying a waiver.

**283—7.23(261,ExecOrd11,17A) Service of order.** Within seven days of its issuance, any order issued under these uniform rules shall be transmitted to the petitioner or the person to whom the order pertains and to any other person entitled to such notice by any provision of law.

**283—7.24(261,ExecOrd11,17A) Public availability.** Subject to the provisions of Iowa Code section 17A.3(1)*"e,"* the commission shall maintain a record of all orders granting and denying waivers under

these uniform rules. All records pertaining to waivers shall be indexed and available to members of the public at the commission's office. Some petitions may contain information the commission is authorized or required to keep confidential. The commission may accordingly edit confidential information from petitions or orders prior to public inspection.

**283—7.25(261,ExecOrd11,17A) Voiding or cancellation.** A waiver is void if the material facts upon which the request is based are not true or if material facts have been withheld. The commission may, at any time, cancel a waiver upon appropriate notice and hearing if the commission finds that the facts as stated in the petition are not true, material facts have been withheld, the alternative means of compliance provided in the waiver have failed to achieve the objectives of the statute or rule, or the petitioner has failed to comply with the conditions of the order.

**283—7.26(261,ExecOrd11,17A) Violations.** Violation of conditions in a waiver shall be treated as a violation of the particular rule for which the waiver is granted and is subject to the same remedies or penalties.

**283—7.27(261,ExecOrd11,17A) Defense.** After the commission issues an order granting a waiver, the order is a defense within its terms and the specific facts indicated therein for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked. The order is not assignable, and it shall not inure to the benefit of the heirs or successors in interest of the person first obtaining the waiver.

**283—7.28(261,ExecOrd11,17A) Judicial review.** Judicial review of a commission decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A.

These rules are intended to implement Iowa Code chapter 17A and Executive Order Number 11.

[Filed 1/19/01, Notice 10/18/00—published 2/7/01, effective 3/14/01]
[Filed 9/24/03, Notice 6/11/03—published 10/15/03, effective 11/19/03]
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# CHAPTER 10
# FEDERAL FAMILY EDUCATION LOAN PROGRAMS

[Prior to 8/10/88, College Aid Commission, 245—Ch 10]
[Prior to 9/15/93, see 283—Ch 10, "Iowa Stafford Loan Program"]

Rescinded **ARC 1870C**, IAB 2/18/15, effective 3/25/15

# CHAPTER 11
# STATE OF IOWA SCHOLARSHIP PROGRAM

[Prior to 8/10/88, see College Aid Commission, 245—Ch 2]

Rescinded **ARC 1870C**, IAB 2/18/15, effective 3/25/15

# CHAPTER 15
# IOWA GUARANTEED LOAN PAYMENT PROGRAM
[Prior to 8/10/88, College Aid Commission, 245—Ch 14]

Rescinded **ARC 1870C**, IAB 2/18/15, effective 3/25/15

# CHAPTER 16
# WASHINGTON, D.C., INTERNSHIP GRANT

Rescinded **ARC 0396C**, IAB 10/17/12, effective 11/21/12

# CHAPTER 19
# ACCELERATED CAREER EDUCATION GRANT PROGRAM

Rescinded **ARC 1870C**, IAB 2/18/15, effective 3/25/15

# CHAPTER 23
# SKILLED WORKFORCE SHORTAGE TUITION GRANT PROGRAM

**283—23.1(261) Tuition grant based on financial need to Iowa residents enrolled in career-technical or career option programs at community colleges in the state.** This grant shall commonly be known as the Kibbie grant.

**23.1(1)** *Financial need.*

*a.* Financial need shall be evaluated annually on the basis of a confidential financial statement filed on a form designated by the commission. For the purposes of determining financial need, the commission has adopted the use of the Free Application for Federal Student Aid (FAFSA), a federal form used to calculate a formula developed by the U.S. Department of Education, the results of which are used to determine relative need known as expected family contribution. The FAFSA must be received by the processing agent by the date specified by the college student aid commission.

*b.* Financial need is defined as the cost of attendance, minus the eligible applicant's expected family contribution, minus the federal Pell Grant received by the applicant, and minus the Iowa vocational-technical tuition grant received by the applicant. Awards will not exceed one-half of the average tuition and mandatory fees at Iowa community colleges and will not be less than $200 per semester or the equivalent.

**23.1(2)** *Student eligibility.*

*a.* A recipient must be an Iowa resident as defined by the Iowa department of education's Iowa community college uniform policy on student residency status.

*b.* A recipient must be enrolled at an Iowa community college for at least three semester hours or the equivalent in a career-technical, career option, or other training program which is eligible for federal Title IV funding and is in an industry which has been identified as having a shortage of skilled workers by the community college in a regional skills gap analysis or by the department of workforce development in the department's most recent quarterly report.

*c.* A recipient may receive an award under this program for general education classes identified by the community college as required for completion of a career-technical or career option program in an identified skilled workforce shortage area. A recipient must be concurrently enrolled in a career-technical or career option program.

*d.* A recipient may receive an award under this program for not more than the equivalent of four semesters. A recipient who is making satisfactory academic progress but cannot complete the course because of required classes may receive the grant for one additional semester.

*e.* A recipient who is a full-time student may receive no more than one-half of the student's tuition and fees, as established by the commission, or the amount of the student's established financial need, whichever is less. A recipient who is a part-time student shall receive a prorated portion of the full-time award. The proration will be established by the commission in a manner consistent with federal Pell Grant Program proration. Recipients who are part-time students enrolled in 3 to 5 credit hours will receive awards equal to one-fourth of the full-time award; recipients enrolled in 6 to 8 credit hours will receive awards equal to one-half of the full-time award; and recipients enrolled in 9 to 11 credit hours will receive awards equal to three-fourths of the full-time award.

*f.* A recipient may again be eligible for an award under paragraph 23.1(2)*"d"* if the recipient resumes study after at least a two-year absence, except that award assistance shall not be used for coursework for which credit was previously received.

**23.1(3)** *Priority for grants.*

*a.* Applicants enrolled in programs required to fill the needs of industry in areas which have been identified as having shortages of skilled workers by the community college in a regional skills gap analysis or by the department of workforce development in the department's most recent quarterly report will receive priority. Skill gap areas will be ranked by each community college in order of the perceived need, and awards will be made to applicants as long as funding remains available.

*b.* Applicants who apply by the priority date specified in the application are ranked in order of the estimated amount of the family's contribution toward college expenses, and awards are granted to those who demonstrate need in order of family contribution from lowest to highest, insofar as funds permit.

**23.1(4)** *Award notification.* A grant recipient will be notified of the award by the community college to which application is made. The community college is responsible for completing necessary verification and for coordinating other aid to ensure compliance with student eligibility requirements and allowable award amounts. The community college shall report changes in student eligibility to the commission.

**23.1(5)** *Enrollment terms.* For purposes of this program, the commission has defined "semester" as one of two terms of enrollment established by the community college between August 1 and May 30 of each academic year or the equivalent and a summer term of equal length or the equivalent. Grant payments are prorated according to paragraph 23.1(2)*"e."*

**23.1(6)** *Award transfers and adjustments.* Recipients are responsible for promptly notifying the appropriate community college of any change in enrollment or financial situation. The community college will make necessary changes and notify the commission.

**23.1(7)** *Restrictions.* A student who is in default on a Stafford Loan, an SLS Loan, or a Perkins/National Direct/National Defense Student Loan or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for assistance under the skilled workforce shortage tuition grant program. Eligibility for state aid may be reinstated upon payment in full of the delinquent obligation or by the commission's ruling on the basis of adequate extenuating evidence presented in an appeal under the procedures set forth in 283—Chapters 4 and 5.

This rule is intended to implement 2012 Iowa Acts, Senate File 2321, section 20.

[**ARC 0397C**, IAB 10/17/12, effective 11/21/12; **ARC 1871C**, IAB 2/18/15, effective 3/25/15]

[Filed ARC 0397C (Notice ARC 0248C, IAB 8/8/12), IAB 10/17/12, effective 11/21/12]

[Filed ARC 1871C (Notice ARC 1688C, IAB 10/29/14), IAB 2/18/15, effective 3/25/15]

# CHAPTER 5
# TRACK, GAMBLING STRUCTURE, AND EXCURSION GAMBLING BOAT LICENSEES' RESPONSIBILITIES

[Prior to 11/19/86, Racing Commission[693]]
[Prior to 11/18/87, Racing and Gaming Division[195]]
[Prior to 8/9/00, see also 491—Chs 20 and 25]

**491—5.1(99D,99F) In general.** For purposes of this chapter, the requirements placed upon an applicant shall become a requirement to the licensee once a license to race or operate a gaming facility has been granted. Every license is granted upon the condition that the license holder shall accept, observe, and enforce the rules and regulations of the commission. It is the affirmative responsibility and continuing duty of each officer, director, and employee of said license holder to comply with the requirements of the application and conditions of the license and to observe and enforce the rules. The holding of a license is a privilege. The burden of proving qualifications for the privilege to receive any license is on the licensee at all times. A licensee must accept all risks of adverse public notice or public opinion, embarrassment, criticism, or financial loss that may result from action with respect to a license. Licensees further covenant and agree to hold harmless and indemnify the Iowa racing and gaming commission from any claim arising from any action of the commission in connection with that license.

**491—5.2(99D,99F) Annual reports.** Licensees shall submit audits to the commission as required by Iowa Code sections 99D.20 and 99F.13. The audit of financial transactions and condition of licensee's operation shall include an internal control letter, documentation that the county board of supervisors selected the auditing firm, a balance sheet, and a profit-and-loss statement pertaining to the licensee's activities in the state, including a breakdown of expenditures and subsidies. If the licensee's fiscal year does not correspond to the calendar year, a supplemental schedule indicating financial activities on a calendar-year basis shall be included in the report. In the event of a license termination, change in business entity, or material change in ownership, the administrator may require the filing of an interim report, as of the date of occurrence of the event. The filing due date shall be the later of 30 calendar days after notification to the licensee or 30 calendar days after the date of the occurrence of the event, unless an extension is granted.

**5.2(1)** The annual audit report required by Iowa Code section 99D.20 shall include a schedule detailing the following information: number of performances; attendance; regulatory fee; total mutuel handle and taxes paid to the state, city, and county; unclaimed winnings; purses paid indicating sources; total breakage and disbursements; and the disbursements of 1 percent of exotic wagers on three or more racing animals.

**5.2(2)** The annual audit report required by Iowa Code section 99F.13 shall include:

*a.* A schedule detailing a weekly breakdown of adjusted gross revenue; taxes paid to the state, city, county, and county endowment fund; and regulatory fees.

*b.* A report on whether material weaknesses in internal accounting control exist.

*c.* A report on whether the licensee has followed the system of internal accounting control approved by the administrator.

[**ARC 1876C**, IAB 2/18/15, effective 3/25/15]

**491—5.3(99D,99F) Information.** The licensee shall submit all information specifically requested by the commission or commission representative.

**491—5.4(99D,99F) Uniform requirements.**

**5.4(1)** *Maintenance of premises and facilities.* Each licensee shall at all times maintain its premises and facilities so as to be neat and clean, well landscaped, painted and in good repair, handicapped accessible, with special consideration for the comfort and safety of patrons, employees, and other persons whose business requires their attendance.

**5.4(2)** *Facilities for commission.* Each licensee shall provide reasonable, adequately furnished office space, including utilities, direct long-distance access for voice and data lines, custodial services, and

necessary office equipment, and, if applicable, work space on the boat for the exclusive use of the commission employees and officials. The licensee shall also make available appropriate parking places for commission staff.

**5.4(3)** *Sanitary facilities for patrons.* Each licensee shall, on every day of operation, provide adequate and sanitary toilets and washrooms and furnish free drinking water for patrons and persons having business on the licensee's premises.

**5.4(4)** *First-aid room.*

*a.* During all hours of operation, each licensee shall equip and maintain adequate first-aid facilities and have, at a minimum, one employee trained in CPR, first aid, and the use of the automated external defibrillator (AED). During live racing at racetracks and while excursion gambling boats are cruising, the licensee shall have present either a physician, a physician assistant, a registered nurse, a licensed practical nurse, a paramedic, or an emergency medical technician.

*b.* All individuals specified under paragraph 5.4(4)*"a"* must be currently licensed or certified, including active status, in accordance with the requirements of the Iowa department of public health.

*c.* Each licensee is required to have a properly functioning and readily accessible AED at the licensee's facility.

**5.4(5)** *Security force.*

*a.* *Peace officer.* Each licensee shall ensure that a person who is a certified peace officer is present as outlined in the facility's security plan approved by the commission. A certified peace officer pursuant to this rule must be employed by a law enforcement agency and have police powers.

*b.* *Employ adequate security.* Each licensee shall employ sufficient security to remove from the licensed premises a person violating a provision of Iowa Code chapter 99D or 99F, commission rules, or orders; any person deemed to be undesirable by racing and gaming commission officials; or any person engaging in a fraudulent practice. Security shall also be provided in and about the premises to secure restricted areas including, but not limited to, the barn area, kennel area, paddock, and racing animal drug testing area.

*c.* *Incident reports.* The licensee shall be required to file a written report, within 72 hours, detailing any incident in which an employee or patron is detected violating a provision of Iowa Code chapter 99D or 99F, a commission rule or order, or internal controls; or is removed for reasons specified under paragraph 5.4(5)*"b."* In addition to the written report, the licensee shall provide immediate notification to the commission and DCI representatives on duty or, if representatives are not on duty, provide notification on each office's messaging system if the incident involved employee theft, criminal activity, Iowa Code chapter 99D or 99F violations, or gaming receipts.

*d.* *Ejection or exclusion.* A licensee may eject or exclude any person, licensed or unlicensed, from the premises or a part thereof of the licensee's facility, solely of the licensee's own volition and without any reason or excuse given, provided ejection or exclusion is not founded on constitutionally protected grounds such as race, creed, color, disability, or national origin.

Reports of all ejections or exclusions for any reason, other than voluntary exclusions, shall be made promptly to the commission representative and DCI and shall state the circumstances. The name of the person must be reported when the person is ejected or excluded for more than one gaming day.

The commission may exclude any person ejected by a licensee from any or all pari-mutuel facilities, gambling structures, or excursion gambling boats controlled by any licensee upon a finding that attendance of the person would be adverse to the public interest.

**5.4(6)** *Firearms possession within licensed facility.*

*a.* No patron or employee of the licensee, including the security department members, shall possess or be permitted to possess any pistol or firearm within a licensed facility without the express written approval of the administrator unless:

(1) The person is a peace officer, on duty, acting in the peace officer's official capacity; or

(2) The person is a peace officer possessing a valid peace officer permit to carry weapons who is employed by the licensee and who is authorized by the administrator to possess such pistol or firearm while acting on behalf of the licensee within that licensed facility.

*b.* Each licensee shall post in a conspicuous location at each entrance a sign that may be easily read stating, "Possession of any firearm within the licensed facility without the express written permission of the Iowa racing and gaming commission is prohibited".

**5.4(7)** *Video recording.* Licensees shall conduct continuous surveillance with the capability of video recording all gambling activities under Iowa administrative rules 661—Chapter 141, promulgated by the department of public safety.

*a.* "Gambling activities" means participating in or wagering on gambling games on the gaming floor; the movement, storage, and handling of uncounted gambling revenues; manual exchange of moneys for forms of wagering credit on the gaming floor; entrance of the public onto the gaming floor; and any other activity as determined by the commission administrator or administrator's designee.

*b.* Commission and DCI representatives shall have unrestricted access to and use of, including independent access capabilities, both live and recorded views and images of the surveillance system.

*c.* A commission representative may allow a gambling game to be placed in operation pending approval under 661—Chapter 141.

*d.* A surveillance department shall develop a standard operating procedure manual, which shall include surveillance system maintenance and emergency plans. This manual shall be made available for inspection by the commission and DCI.

*e.* A facility may include capabilities within the surveillance system for video recording of other areas of a facility and grounds, provided that commission and DCI access is unrestricted.

**5.4(8)** *Commission approval of contracts and business arrangements.*

*a.* *Qualifying agreements.*

(1) All contracts and business arrangements entered into by a facility are subject to commission jurisdiction. Written and verbal contracts and business arrangements involving a related party or in which the term exceeds three years or the total value in a calendar year exceeds $100,000 are agreements that qualify for submission to and approval by the commission. For the purpose of this subrule, a qualifying agreement shall be limited to:

1. Any obligation that expends, encumbers, or loans facility assets to anyone other than a not-for-profit entity or a unit of government for the payment of taxes or utilities.

2. Any disposal of facility assets or provision of goods and services at less than market value to anyone other than a not-for-profit entity or a unit of government.

3. A previously approved qualifying agreement, if consideration exceeds the approved amount in a calendar year by the greater of $100,000 or 25 percent.

4. Any type of contract, regardless of value or term, where a third party provides electronic or mechanical access to cash or credit for a patron of the facility. The contract must contain a clause that provides for immediate notification and implementation when technology becomes available to allow a person to voluntarily bar the person's access to receive cash or credit from such devices located on the licensed premises.

(2) A debt transaction greater than $3 million entered into by a licensee or licensee's parent company assigning an obligation to a licensee, except a debt transaction previously approved in subrule 5.4(20), is subject to commission jurisdiction. The request for approval shall include:

1. The names and addresses of all parties;

2. The amount and source of funds;

3. The nature and amount of security and collateral provided;

4. The specific nature and purpose of the transaction; and

5. The term sheet or executive summary of the transaction.

(3) A qualifying agreement must be submitted within 30 days of execution. Commission approval must be obtained prior to implementation, unless the qualifying agreement contains a written clause stating that the agreement is subject to commission approval. Qualifying agreements that are ongoing or open-ended need only be submitted on initiation, unless there is a material change in terms or noncompliance with 5.4(8)*"b"*(4).

*b.* *Purpose of review.* The commission conducts reviews to serve the public interest to ensure that:

(1) Gaming is free from criminal and corruptive elements.

(2) Gaming-related funds are directed to the lawful recipient.

(3) Gaming profits are not improperly distributed.

(4) Iowa resources, goods and services are utilized. Resources, goods, and services shall be considered to be made in Iowa, be provided by Iowans, or emanate from Iowa if one or more of the following apply:

1. Goods are manufactured in Iowa.
2. Goods are distributed through a distributor located in Iowa.
3. Goods are sold by a retailer/wholesaler located in Iowa.
4. Resources are produced or processed in Iowa.
5. Services are provided by a vendor whose headquarters/home office is in Iowa.
6. Goods, resources or services are provided by a vendor whose headquarters/home office is located outside Iowa, but which has a tangible business location (not simply a post office box) and does business in Iowa.
7. Services beyond selling are provided by employees who are based in Iowa.

A facility shall be considered to have utilized a substantial amount of Iowa resources, goods, services and entertainment in compliance with Iowa Code sections 99D.9 and 99F.7(4) as amended by 2004 Iowa Acts, House File 2302, section 11 and section 43, respectively, if the facility demonstrates to the satisfaction of the commission that preference was given to the extent allowed by law and other competitive factors.

*c. Related parties.* Other submittal requirements notwithstanding, agreements negotiated between the facility and a related party must be accompanied by an economic and qualitative justification. For the purpose of this subrule, related party shall mean any one of the following having any beneficial interest in any other party with whom the facility is seeking to negotiate an agreement:

(1) Any corporate officer or member of a facility's board of directors.

(2) Any owner with more than a 5 percent interest in a facility.

(3) A member of either the qualified sponsoring organization or the qualifying organization under Iowa Code section 99D.8 associated with a facility.

*d. Review criteria.* The commission shall approve all qualifying agreements that, in the commission's sole opinion, represent a normal business transaction and may impose conditions on an approval. The commission may deny approval of any agreement that, in the commission's sole opinion, represents a distribution of profits that differs from commission-approved ownership and beneficial interest. This subrule does not prohibit the commission from changing the approved ownership or beneficial interest.

**5.4(9)** *Checks.* The acceptance of personal checks shall be allowed; however, "counter" checks shall not be allowed. All checks accepted must be deposited in a bank by the close of the banking day following acceptance.

**5.4(10)** *Taxes and fees.*

*a. Annual taxes and fees.* All taxes and fees, whose collection by the state is authorized under Iowa Code chapters 99D and 99F, shall be accounted for on a fiscal-year basis, each fiscal year beginning on July 1 and ending on June 30.

*b. Submission of taxes and fees.* All moneys collected for and owed to the commission or state of Iowa under Iowa Code chapter 99F shall be accounted for and itemized on a weekly basis in a format approved by the commission. Each day on the report shall be an accurate representation of the gaming activities. A week shall begin on Monday and end on Sunday. The reporting form must be received in the commission office by noon on Wednesday following the week's end. The moneys owed, according to the reporting form, must be received in the treasurer's office by 11 a.m. on the Thursday following the week's end.

**5.4(11)** *Rate of tax revenue.* Each licensee shall prominently display at the licensee's gambling facility the annual percentage rate of state and local tax revenue collected by state and local government from the gambling facility annually.

**5.4(12)** *Problem gambling.*

*a.* The holder of a license to operate gambling games shall adopt and implement policies and procedures designed to:

(1) Identify problem gamblers; and

(2) Allow persons to be voluntarily excluded for life from all facilities. Each facility will disseminate information regarding the exclusion to all other facilities.

*b.* The policies and procedures shall be developed in cooperation with the gambling treatment program and shall include without limitation the following:

(1) Training of key employees to identify and report suspected problem gamblers;

(2) Procedures for recording and tracking identified problem gamblers;

(3) Policies designed to prevent serving alcohol to intoxicated casino patrons;

(4) Steps for removing problem gamblers from the casino; and

(5) Procedures for preventing reentry of problem gamblers.

*c.* A licensee shall include information on the availability of the gambling treatment program in a substantial number of its advertisements and printed materials.

**5.4(13)** *Records regarding ownership.*

*a.* In addition to other records and information required by these rules, each licensee shall maintain the following records regarding the equity structure and owners:

(1) If a corporation:

1. A certified copy of articles of incorporation and any amendments thereto.

2. A copy of bylaws and amendments thereto.

3. A current list of officers and directors.

4. Minutes of all meetings of stockholders and directors.

5. A current list of all stockholders and stockholders of affiliates, including their names and the names of beneficial shareholders.

6. A complete record of all transfers of stock.

7. A record of amounts paid to the corporation for issuance of stock and other capital contributions and dates thereof.

8. A record, by stockholder, of all dividends distributed by the corporation.

9. A record of all salaries, wages, and other remuneration (including perquisites), direct and indirect, paid by the corporation during the calendar or fiscal year to all officers, directors, and stockholders with an ownership interest at any time during the calendar or fiscal year, equal to or greater than 5 percent of the outstanding stock of any class of stock.

(2) If a partnership:

1. A schedule showing the amounts and dates of capital contributions, the names and addresses of the contributors, and percentage of interest in net assets, profits, and losses held by each.

2. A record of the withdrawals of partnership funds or assets.

3. A record of salaries, wages, and other remuneration (including perquisites), direct and indirect, paid to each partner during the calendar or fiscal year.

4. A copy of the partnership agreement and certificate of limited partnership, if applicable.

(3) If a sole proprietorship:

1. A schedule showing the name and address of the proprietor and the amount and date of the original investment.

2. A record of dates and amounts of subsequent additions to the original investment and withdrawals therefrom.

3. A record of salaries, wages, and other remuneration (including perquisites), direct or indirect, paid to the proprietor during the calendar or fiscal year.

*b.* All records regarding ownership shall be located in a place approved by the commission.

*c.* If the licensee is publicly held, upon the request of the administrator, the licensee shall submit to the commission one copy of any report required to be filed by such licensee or affiliates with the Securities and Exchange Commission or other domestic or foreign securities regulatory agency. If the licensee is

privately held, upon the request of the administrator, the licensee shall submit financial, ownership, or other entity records for an affiliate.

**5.4(14)** *Retention, storage, and destruction of books, records, and documents.*

*a.* Except as otherwise provided, all original books, records, and documents pertaining to the licensee's operations shall be:

(1) Prepared and maintained in a complete and accurate form.

(2) Retained at a site approved by the administrator until audited.

(3) Held immediately available for inspection by the commission during business hours of operations.

(4) Organized and indexed in such a manner as to provide immediate accessibility to the commission.

*b.* For the purpose of this subrule, "books, records, and documents" shall be defined as any book, record, or document pertaining to or prepared or generated by the licensee including, but not limited to, all forms, reports, accounting records, ledgers, subsidiary records, computer-generated data, internal audit records, correspondence, contracts, and personnel records, including information concerning a refusal to submit to drug testing and test results conducted pursuant to Iowa Code section 730.5.

*c.* All original books, records, and documents may be copied and stored on microfilm, microfiche, or other suitable media system approved by the administrator.

*d.* No original book, record, document, or suitable media copy may be destroyed by a licensee, for three years, without the prior approval of the administrator.

**5.4(15)** *Remodeling.* For any change to be made to the facility itself directly associated with racing or gaming or in the structure of the boat itself, the licensee must first submit plans to and receive the approval of the administrator.

**5.4(16)** *Officers, agents, and employees.* Licensees are accountable for the conduct of their officers, agents, and employees. The commission or commission representative reserves the right to impose penalties against the license holder or its officer, agent, employee, or both as the commission or commission representative determines appropriate. In addition, the licensee shall be responsible for the conduct of nonlicensed persons in nonpublic areas of the excursion gambling boat, gambling structure, or racetrack enclosure.

**5.4(17)** *Designated gaming floor.* The designated gaming floor is all areas occupied by or accessible from a gambling game, not otherwise obstructed by a wall, door, partition, barrier, or patron entrance. A patron entrance shall be identified by a sign visible to patrons approaching the gaming floor. The sign shall denote entrance to the gaming floor and specify that the gaming floor is not accessible to persons under the age of 21. A floor plan identifying the area shall be filed with the administrator for review and approval. Modification to a previously approved plan must be submitted for approval at least ten days prior to implementation.

**5.4(18)** *State fire and building codes.*

*a.* Barges, as defined in 5.6(1)*"c,"* and other land-based gaming facilities and such facilities that undergo major renovation shall comply with the state building code created by Iowa Code chapter 103A, if there is no local building code in force in the local jurisdiction in which the facility is located. A licensee shall submit construction documents and plans to the state building code commissioner and receive approval prior to construction, if a facility is subject to the state building code.

*b.* If there is no enforcement of fire safety requirements by a local fire department, a licensee shall also submit construction plans and documents to the state fire marshal and receive approval prior to construction. The fire marshal may cause a facility subject to this paragraph to be inspected for compliance with fire marshal rules prior to operation of the facility and shall notify the commission and the licensee of the results of any such inspection.

*c.* If a proposed new or renovated facility is subject to both paragraphs *"a"* and *"b,"* a single submission of construction plans and documents to the building code commissioner, with a cover letter stating that review and approval are required with respect to both the state building code and rules of the fire marshal, is sufficient to meet both requirements. Facilities subject to both paragraphs *"a"* and

*"b"* shall have received approval from both the fire marshal and the building code commissioner prior to construction.

**5.4(19)** *Gambling setoff.* Each licensee shall adopt and implement policies and procedures designed to set off winnings of patrons who have a valid lien established under Iowa Code chapters 99D and 99F.

**5.4(20)** *Shelf application for debt.*

*a.* The commission may grant approval of a shelf application for a period not to exceed three years.

*b.* Licensees whose parent company has issued publicly traded debt or publicly traded securities may apply to the commission for a shelf approval of debt transactions if the parent company has:

(1) A class of securities listed on the New York Stock Exchange, the American Stock Exchange or the National Association of Securities Dealers Automatic Quotation System (NASDAQ) or has stockholders' equity in the amount of $15 million or more as reported in the parent company's most recent report on Form 10-K or Form 10-Q filed with the Securities and Exchange Commission (SEC) immediately preceding application; and

(2) Filed all reports required by the SEC.

*c.* The application shall be in writing and shall contain:

(1) Proof of qualification to make the application in accordance with the criteria of this subrule.

(2) A statement of the amount of debt sought to be approved and the intended use of potential proceeds.

(3) Duration sought for the shelf approval.

(4) Financing rate sought during shelf approval.

(5) Evidence of signature by authorized representative of the licensee under oath.

(6) Other supplemental documentation requested by the commission or commission representative following the initial submission.

*d.* Once an application is approved by the commission:

(1) The licensee shall notify the commission representative of all debt transactions within ten days of consummation, including subsequent amendments and modifications of debt transactions, and provide executed copies of the documents evidencing the transactions as may be required.

(2) The commission representative may rescind a shelf approval without prior written notice. The rescission shall be in writing and set forth the reasons for the rescission and shall remain in effect until lifted by the commission upon the satisfaction of any such terms and conditions as required by the commission.

**5.4(21)** *Network security.*

*a.* The licensee shall biennially submit the results of an independent network security risk assessment to the administrator for review, subject to the following requirements:

(1) The testing organization must be independent of the licensee and shall be qualified by the administrator.

(2) The network security risk assessment shall be conducted no later than 90 days after the start of the licensee's fiscal year in each year an assessment is required.

(3) Results from the network security risk assessment shall be submitted to the administrator no later than 90 days after the assessment is conducted.

*b.* At the discretion of the administrator, additional network security risk assessments may be required.

[**ARC 8029B**, IAB 8/12/09, effective 9/16/09; **ARC 9018B**, IAB 8/25/10, effective 9/29/10; **ARC 0734C**, IAB 5/15/13, effective 6/19/13; **ARC 1456C**, IAB 5/14/14, effective 6/18/14; **ARC 1506C**, IAB 6/25/14, effective 7/30/14; **ARC 1876C**, IAB 2/18/15, effective 3/25/15]

**491—5.5(99D) Pari-mutuel uniform requirements.**

**5.5(1)** *Insect and rodent control.* The licensee shall provide systematic and effective insect and rodent control, including control of flies, mosquitoes, fleas, and mice, to all areas of licensee's premises at all times during a race meeting.

**5.5(2)** *Results boards, totalizators required.* Each licensee shall provide and maintain computerized totalizators and electronic boards showing odds, results, and other racing information located in plain view of patrons.

**5.5(3)** *Photo finish camera.* A licensee shall provide two electronic photo finish devices with mirror image to photograph the finish of each race and record the time of each racing animal in at least hundredths of a second. The location and operation of the photo finish device must be approved by the commission before its first use in a race. The licensee shall promptly post a photograph, on a monitor, of each photo finish for win, place or show, or for fourth place in superfecta races, in an area accessible to the public. The licensee shall ensure that the photo finish devices are calibrated before the first day of each race meeting and at other times as required by the commission. On request by the commission, the licensee shall provide, without cost, a print of a photo finish to the commission. A photo finish of each race shall be maintained by the licensee for not less than six months after the end of the race meeting, or such other period as may be requested by the commission.

**5.5(4)** *Electric timing device.* Any electric timing device used by the licensee shall be approved by the commission.

**5.5(5)** *Official scale.* The licensee shall provide and maintain in good working order official scales or other approved weighing devices. The licensee shall provide to the stewards certification of the accuracy of the scales at the beginning of each race meeting or more frequently if requested by the stewards.

**5.5(6)** *Lighting.* Each licensee shall provide and maintain adequate illumination in the barn/kennel area, parking area, and racetrack area.

**5.5(7)** *Fencing.* The stable and kennel areas should be properly fenced as defined by the commission and admission permitted only in accord with rules of the commission.

**5.5(8)** *Guest passes.* The licensee shall develop a policy to be approved by the stewards for the issuance of guest passes for entrance to the kennel or stable area. The guest pass is not an occupational license and does not permit the holder to work in any capacity or in any way confer the benefits of an occupational license to participate in racing. The license holder sponsoring or escorting the guest shall be responsible for the conduct of the guest pass holder.

**5.5(9)** *Stewards.* There shall be three stewards for each racing meet, two appointed by the commission and one nominated by the licensee for approval by the commission. The names of licensees' nominees for steward and biographical information describing the experience and qualifications of the nominees shall be submitted no later than 45 days before commencement of a race meeting. The commission may consider for appointment or approval a person who meets all of the following requirements. The person shall have:

*a.* Engaged in pari-mutuel racing in a capacity and for a period satisfactory to the commission.

*b.* Satisfactorily passed an optical examination within one year prior to approval as a steward evidencing corrected 20/20 vision and the ability to distinguish colors correctly.

*c.* Satisfied the commission that income, other than salary as a steward, is independent of and unrelated to patronage of or employment by any occupational licensee under the supervision of the steward, so as to avoid the appearance of any conflict of interest or suggestion of preferential treatment of an occupational licensee.

**5.5(10)** *Purse information.* Each licensee shall provide to the commission at the close of each racing meet the following purse information:

*a.* The identity of each person or entity to which purse money is paid by the licensee for purses won by racing animals at the facility. This report shall include the name, residential or business address and amount paid to that person or entity. The data should be assembled separately for Iowa and non-Iowa addressees, and aggregates should be presented in descending order of magnitude.

*b.* The identity of each person or entity to which purse money is paid by the licensee for purses won by Iowa-bred animals at the facility. This report shall include the name, residential or business address and amount paid to that person or entity in supplemental funds for ownership of Iowa-bred animals. The data should be assembled separately for Iowa and non-Iowa addressees, and aggregates should be presented in descending order of magnitude.

**5.5(11)** *Designated wagering area.* The designated wagering area is a rectangular area within a minimum of five feet from the front and from either side of a stationary wagering window or self-service wagering device, not otherwise obstructed by a wall or other barrier. The facility shall either section off or clearly delineate the floor of the area and post a sign near the area, which is visible to patrons

approaching the area, denotes the wagering area and specifies that the wagering area is not accessible to persons under the age of 21. The designation applies only when the wagering window or device is open to transact wagering. A floor plan identifying the area shall be filed with the administrator for review and approval. Modification to a previously approved plan must be submitted for approval at least ten days prior to implementation.

**491—5.6(99F) Excursion gambling boat uniform requirements.**

**5.6(1)** *Excursion gambling boat.*

*a.* *Capacity.* The minimum passenger capacity necessary for an excursion gambling boat is 250.

*b.* *Excursion boat.* A self-propelled, floating "vessel" as defined by the U.S. Coast Guard may contain more than one vessel. In order to be utilized for gaming purposes, the vessel containing the casino must either contain a permanent means of propulsion or have its means of propulsion contained in an attached vessel. In the event that the vessel containing the casino is propelled by a second vessel, the boat will be considered self-propelled only when the vessels are designed, constructed, and operated as a single unit.

*c.* *Moored barge.* "Barge" means any stationary structure approved by the commission, where the entire gaming floor is located on or near a body of water as defined under Iowa Code section 99F.7, subsection 1, and which facility is subject to land-based building codes rather than maritime or Iowa department of natural resources inspection laws and regulations.

**5.6(2)** *Excursions.*

*a.* *Length.* The excursion season shall be from April 1 through October 31 of each calendar year. An excursion boat must operate at least one excursion during the excursion season to operate during the off-season, although a waiver may be granted by the commission in the first year of a boat's operation if construction of the boat was not completed in time for the boat to qualify. Excursions shall consist of a minimum of one hour in transit during the excursion season. The number of excursions per day is not limited. During the excursion season and the off-season, while the excursion gambling boat is docked, passengers may embark or disembark at any time during business hours pursuant to Iowa Code section 99F.4(17).

*b.* *Dockside completion of excursions.* If, during the excursion season, the captain determines that it would be unsafe to complete any portion of an excursion, or if mechanical problems prevent the completion of any portion of an excursion, the boat may be allowed to remain at the dock or, if the excursion is underway, return to the dock and conduct the gaming portion of the excursion while dockside, unless the captain determines that passenger safety is threatened.

*c.* *Notification.* If an excursion is not completed due to reasons specified in paragraph 5.6(2)*"b,"* a commission representative shall be notified as soon as is practical.

**5.6(3)** *Drug testing of boat operators.* Captains, pilots, and physical operators of excursion gambling boats shall be drug tested, as permitted by Iowa Code section 730.5, on a continuous basis with no more than 60 days between tests. The testing shall be conducted by a laboratory certified by the United States Department of Health and Human Services or approved under the rules adopted by the Iowa department of public health. The facility shall report positive test results to a commission representative.

These rules are intended to implement Iowa Code chapters 99D and 99F.

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◊ Two or more ARCs

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# CHAPTER 8
# WAGERING, SIMULCASTING AND ADVANCE DEPOSIT WAGERING

[Prior to 11/19/86, Racing Commission[693]]
[Prior to 11/18/87, Racing and Gaming Division[195]]

**491—8.1(99D) Definitions.**

*"Account"* means an account approved by the commission for advance deposit wagering with a complete record of credits, wagers and debits established by a licensee account holder and managed by a licensee or ADWO.

*"Administrator"* means the administrator of the Iowa racing and gaming commission or the administrator's designee.

*"Advance deposit wagering"* means a method of pari-mutuel wagering in which an individual may establish an account, deposit money into the account, and use the account balance to pay for pari-mutuel wagering.

*"Advance deposit wagering center"* means an actual location, the equipment, and the staff of a licensee, ADWO, or both involved in the management, servicing and operation of advance deposit wagering for the licensee.

*"Advance deposit wagering operator"* or *"ADWO"* means an advance deposit wagering operator licensed by the commission who has entered into an agreement with the licensee of the horse racetrack in Polk County and the Iowa Horsemen's Benevolent and Protective Association to provide advance deposit wagering.

*"Authorized receiver"* means a receiver that conducts and operates a pari-mutuel wagering system on the results of contests being held or conducted and simulcast from the enclosures of one or more host facilities.

*"Betting interest"* means a number assigned to a single runner, an entry or a field for wagering purposes.

*"Board of stewards"* means a board established by the administrator to review conduct by pari-mutuel facilities and their employees that may constitute violations of the rules and statutes relating to pari-mutuel racing. The administrator may serve as a board of one.

*"Breakage"* means the odd cents by which the amount payable on each dollar wagered in a pari-mutuel pool exceeds a multiple of ten cents. "Breakage" is the net pool minus payoff.

*"Commission"* means the Iowa racing and gaming commission.

*"Commission representative"* means an employee of the commission designated to represent the commission in matters pertaining to the operation of the mutuel department. In the absence of a specifically appointed representative, a commission steward will perform the functions and duties of the commission representative.

*"Contest"* means a race on which wagers are placed.

*"Credits"* means all positive inflows of money to an account.

*"Dead heat"* means that two or more runners have tied at the finish line for the same position in the order of finish.

*"Debits"* means all negative outflow of money from an account.

*"Deposit"* means a payment of money into an account.

*"Double"* means a wager to select the winners of two consecutive races and is not a parlay and has no connection with or relation to any other pool conducted by the facility and shall not be construed as a "quinella double."

*"Entry"* means two or more runners are coupled in a contest because of common ties and a wager on one of them shall be a wager on all of them.

*"Exacta"* (may also be known as "perfecta" or "correcta") means a wager selecting the exact order of finish for first and second in that contest and is not a parlay and has no connection with or relation to any other pool conducted by the facility.

*"Facility"* means an entity licensed by the commission to conduct pari-mutuel wagering in Iowa.

*"Field"* means when the individual runners competing in a contest exceed the numbering capacity of the totalizator and all runners of the higher number shall be grouped together. A wager on one in the field shall be a wager on all. (No "fields" shall be allowed in greyhound racing.)

*"Guest facility"* means a facility which offers licensed pari-mutuel wagering on contests conducted by another facility (the host) in either the same state or another jurisdiction.

*"Host facility"* means the facility conducting a licensed pari-mutuel meeting from which authorized contests or entire performances are simulcast.

*"Interstate simulcasting"* means the telecast of live audio and visual signals of pari-mutuel racing sent to or received from a state outside the state of Iowa to an authorized racing or gaming facility for the purpose of wagering.

*"Intrastate simulcasting"* means the telecast of live audio and visual signals of pari-mutuel racing conducted on a licensed pari-mutuel track within Iowa sent to or received from an authorized pari-mutuel facility within Iowa for the purpose of pari-mutuel wagering.

*"Licensee"* means a horse racetrack located in Polk County operating under a license issued by the commission.

*"Licensee account holder"* means any individual at least 21 years of age who successfully completed an application and for whom the licensee or ADWO has opened an account. "Licensee account holder" does not include any corporation, partnership, limited liability company, trust, estate or other formal or nonformal entity.

*"Minus pool"* means when the total amount of money to be returned to the public exceeds what is in the pool because of the deduction of a commission and because of the rule stipulation that no mutuel tickets shall be paid at less than $1.10 for each $1.00 wagered.

*"Mutuel department"* means that area of a racetrack where wagers are made and winning tickets are cashed and where the totalizator is installed and any area used directly in the operation of pari-mutuel wagering.

*"Mutuel manager"* means an employee of the facility who manages the mutuel department.

*"Net pool"* means the amount remaining in each separate pari-mutuel pool after the takeout percentage, as provided for by Iowa Code section 99D.11, has been deducted.

*"Odds"* means the approximate payoffs per dollar based on win pool wagering only on each betting interest for finishing first without a dead heat with another betting interest.

*"Official"* means that the order of finish for the race is "official" and that payoff prices based upon the "official" order of finish shall be posted.

*"Order of finish"* means the finishing order of each runner from first place to last place in each race. For horse racing only, the order of finish may be changed by the stewards for a rule infraction prior to posting of the official order of finish.

*"Pari-mutuel pool"* means the total amount of money wagered on each separate pari-mutuel pool for payoff purposes.

*"Payoff"* means the amount distributed to holders of valid winning pari-mutuel tickets in each pool as determined by the official order of finish and includes the amount wagered and profit.

*"Pick (n)"* means a betting transaction in which a purchaser selects winner(s) of (x) number of contests designated by the facility during one racing card.

*"Pick three"* means a wager to select the winners of three consecutive races and is not a parlay and has no connection with or relation to any other pool conducted by the facility.

*"Place"* means a runner finishing second.

*"Place pick (n) pools"* means a wager to select the first- or second-place finisher in each of a designated number of contests.

*"Place pool"* means the total amount of money wagered on all betting interests in each race to finish first or second.

*"Post time"* means the scheduled starting time for a contest.

*"Proper identification"* means a form of identification accepted in the normal course of business to establish that the person making a transaction is a licensee account holder.

*"Quinella"* means a wager selecting two runners to finish first and second, regardless of the order of finish, and is not a parlay and has no connection with or relation to any other pool conducted by the facility.

*"Quinella double"* means a wager which consists of selecting the quinella in each of two designated contests and is an entirely separate pool from all other pools and has no connection with or relation to any other pool conducted by the facility.

*"Runner"* means each entrant in a contest, designated by a number as a betting interest.

*"Sales transaction data"* means the data between totalizator ticket-issuing machines and the totalizator central processing unit for the purpose of accepting wagers and generating, canceling and cashing pari-mutuel tickets and the financial information resulting from the processing of sales transaction data, such as handle.

*"Secure personal identification code"* means an alpha-numeric character code provided by a licensee account holder as a means by which the licensee or ADWO may verify a wager or account transaction as authorized by the licensee account holder.

*"Show"* means a runner finishing third.

*"Show pool"* means the total amount of money wagered on all betting interests in each contest to finish either first, second or third.

*"Source market fee"* or *"host fee"* means the part of a wager that is made on any race by a person who is a licensee account holder and that is returned to the licensee and the Iowa Horsemen's Benevolent and Protective Association pursuant to the terms of a negotiated agreement as required by 491—8.6(99D).

*"Steward"* means a racing official appointed or approved by the commission to perform the supervisory and regulatory duties relating to pari-mutuel racing.

*"Superfecta"* means a wager selecting the exact order of finish for first, second, third, and fourth in that contest and is not a parlay and has no connection with or relation to any other pool conducted by the facility.

*"Totalizator"* means a machine for registering wagers and computing odds and payoffs based upon data supplied by each pari-mutuel ticket-issuing machine.

*"Trifecta"* means a wager selecting the exact order of finish for first, second, and third in that race and is not a parlay and has no connection with or relation to any other pool conducted by the facility.

*"Tri-superfecta"* means a wager selecting the exact order of finish for first, second and third in the first designated tri-super contest combined with selecting the exact order of finish for first, second, third and fourth in the second designated tri-super contest.

*"Twin quinella"* means a wager in which the bettor selects the first two finishers, regardless of order, in each of two designated contests. Each winning ticket for the twin quinella must be exchanged for a free ticket on the second twin quinella contest in order to remain eligible for the second-half twin quinella pool.

*"Twin superfecta"* means a wager in which the bettor selects the first four finishers, in their exact order, in each of two designated contests. Each winning ticket for the first twin superfecta contest must be exchanged for a free ticket on the second twin superfecta contest in order to remain eligible for the second-half twin superfecta pool.

*"Twin trifecta"* means a wager in which the bettor selects the three runners that will finish first, second, and third in the exact order as officially posted in each of the two designated twin trifecta races.

*"Underpayment"* means when the payoff to the public resulting from errors in calculating pools and errors occurring in the communication in payoffs results in less money returned to the public than is actually due.

*"Win"* means a runner finishing first.

*"Win pool"* means the total amount wagered on all betting interests in each contest to finish first.

*"Withdrawal"* means a payment of money from an account by the licensee or ADWO to the licensee account holder when properly requested by the licensee account holder.

[**ARC 0734C**, IAB 5/15/13, effective 6/19/13]

**491—8.2(99D) General.**

**8.2(1)** *Wagering.* Each facility shall conduct wagering in accordance with applicable laws and these rules. Such wagering shall employ a pari-mutuel system approved by the commission. The totalizator shall be tested prior to and during the meeting as required by the commission. Annually, the facility shall have an external audit, approved by the administrator, of the totalizator system. All systems of wagering other than pari-mutuel, such as bookmaking and auction-pool selling, are prohibited, and any person attempting to participate in prohibited wagering shall be ejected or excluded from facility grounds.

**8.2(2)** *Records.* The facility shall maintain records of all wagering so the commission may review such records for any contest including the opening line, subsequent odds fluctuation, the amount and at which window wagers were placed on any betting interest and such other information as may be required. Such wagering records shall be retained by each facility and safeguarded for a period of time specified by the commission. The commission may require that certain of these records be made available to the wagering public at the completion of each contest.

The facility shall provide the commission with a list of the licensed individuals afforded access to pari-mutuel records and equipment at the wagering facility.

**8.2(3)** *Pari-mutuel tickets.* A pari-mutuel ticket is evidence of a contribution to the pari-mutuel pool operated by the facility and is evidence of the obligation of the facility to pay to the holder thereof such portion of the distributable amount of the pari-mutuel pool as is represented by such valid pari-mutuel ticket. The facility shall cash all valid winning tickets when such are presented for payment during the course of the meeting where sold and for a specified period after the last day of the meeting as provided in paragraph 8.2(4)*"g."*

*a.* To be deemed a valid pari-mutuel ticket, such ticket shall have been issued by a pari-mutuel ticket machine operated by the facility and recorded as a ticket entitled to a share of the pari-mutuel pool and contain imprinted information as to:

(1) The name of the facility operating the meeting.

(2) A unique identifying number or code.

(3) Identification of the terminal at which the ticket was issued.

(4) A designation of the performance for which the wagering transaction was issued.

(5) The contest number for which the pool is conducted.

(6) The type(s) of wagers represented.

(7) The number(s) representing the betting interests for which the wager is recorded.

(8) The amount(s) of the contributions to the pari-mutuel pool or pools for which the ticket is evidence.

*b.* No pari-mutuel ticket recorded or reported as previously paid, canceled, or nonexistent shall be deemed a valid pari-mutuel ticket by the facility. The facility may withhold payment and refuse to cash any pari-mutuel ticket deemed not valid, except as provided in paragraph 8.2(4)*"e."*

**8.2(4)** *Pari-mutuel ticket sales.*

*a.* Pari-mutuel tickets shall not be sold by anyone other than a facility licensed to conduct pari-mutuel wagering.

*b.* No pari-mutuel ticket may be sold on a contest for which wagering has already been closed, and no facility shall be responsible for ticket sales entered into but not completed by issuance of a ticket before the totalizator is closed for wagering on such contest.

*c.* Claims pertaining to a mistake on an issued or unissued ticket must be made by the bettor prior to leaving the seller's window.

*d.* Payment on winning pari-mutuel wagers shall be made on the basis of the order of finish as purposely posted and declared "official." Any subsequent change in the order of finish or award of purse money(s) as may result from a subsequent ruling by the stewards or administrator shall in no way affect the pari-mutuel payoff. If an error in the posted order of finish or payoff figures is discovered, the official order of finish or payoff prices may be corrected and an announcement concerning the change shall be made to the public.

*e.* The facility shall not satisfy claims on lost, mutilated, or altered pari-mutuel tickets without authorization from the administrator.

*f.* The facility shall have no obligation to enter a wager into a betting pool if unable to do so due to equipment failure.

*g.* Payment on valid pari-mutuel tickets shall be made only upon presentation and surrender to the facility where the wager was made within 60 days following the close of the meeting during which the wager was made. Failure to present any such ticket within 60 days shall constitute a waiver of the right to receive payment.

**8.2(5)** *Advance performance wagering.* No facility shall permit wagering to begin more than one hour before scheduled post time of the first contest of a performance unless it has first obtained the authorization of the administrator.

**8.2(6)** *Claims for payment from pari-mutuel pool.* At a designated location, a written, verified claim for payment from a pari-mutuel pool shall be accepted by the facility in any case where the facility has withheld payment or has refused to cash a pari-mutuel wager. The claim shall be made on such form as approved by the administrator, and the claimant shall make such claim under penalty of perjury. The original of such claim shall be forwarded to the administrator within 48 hours.

*a.* In the case of a claim made for payment of a mutilated pari-mutuel ticket which does not contain the total imprinted elements required in paragraph 8.2(3)*"a"* of these general provisions, the facility shall make a recommendation to accompany the claim forwarded to the administrator as to whether or not the mutilated ticket has sufficient elements to be positively identified as a winning ticket.

*b.* In the case of a claim made for payment on a pari-mutuel wager, the administrator shall adjudicate the claim and may order payment thereon from the pari-mutuel pool or by the facility, may deny the claim, or may make such other order as the administrator may deem proper.

**8.2(7)** *Payment for errors.* If an error occurs in the payment amounts for pari-mutuel wagers which are cashed or entitled to be cashed, and as a result of such error the pari-mutuel pool involved in the error is not correctly distributed among winning ticket holders, the following shall apply:

*a.* Verification is required to show that the amount of the commission, the amount in breakage, and the amount in payoffs are equal to the total gross pool. If the amount of the pool is more than the amount used to calculate the payoff, the underpayment shall be added to the corresponding pool of the next contest. If an underpayment is discovered after the close of the meeting, the underpayment shall be held in an interest-bearing account approved by the administrator until being added, together with accrued interest, to the corresponding pool of the next meet.

*b.* Any claim not filed with the facility within 30 days, inclusive of the date on which the underpayment was publicly announced, shall be deemed waived, and the facility shall have no further liability therefor.

*c.* In the event the error results in an overpayment to winning wagers, the facility shall be responsible for such payment.

**8.2(8)** *Betting explanation.* A summary explanation of pari-mutuel wagering and each type of betting pool offered shall be published in the program for every wagering performance. The rules of racing relative to each type of pari-mutuel pool offered must be prominently displayed on facility grounds and available upon request through facility representatives.

**8.2(9)** *Display of betting information.*

*a.* Approximate odds for win pool betting shall be posted on display devices within view of the wagering public and updated at intervals of not more than 90 seconds.

*b.* The probable payoff or amounts wagered, in total and on each betting interest, for other pools may be displayed to the wagering public at intervals and in a manner approved by the administrator.

*c.* Official results and payoffs must be displayed upon each contest being declared official.

**8.2(10)** *Canceled contests.* If a contest is canceled or declared "no contest," refunds shall be granted on valid wagers in accordance with these rules.

**8.2(11)** *Refunds.*

*a.* Notwithstanding other provisions of these rules, refunds of the entire pool shall be made on:

(1) Win pools, exacta pools, and first-half double pools offered in contests in which the number of betting interests has been reduced to fewer than two.

(2) Place pools, quinella pools, trifecta pools, first-half quinella double pools, first-half twin quinella pools, first-half twin trifecta pools, and first-half tri-superfecta pools offered in contests in which the number of betting interests has been reduced to fewer than three.

(3) Show pools, superfecta pools, and first-half twin superfecta pools offered in contests in which the number of betting interests has been reduced to fewer than four.

*b.* Authorized refunds shall be paid upon presentation and surrender of the affected pari-mutuel ticket.

**8.2(12)** *Coupled entries and mutuel fields.*

*a.* Contestants coupled in wagering as a coupled entry or mutuel field shall be considered part of a single betting interest for the purpose of price calculations and distribution of pools. Should any contestant in a coupled entry or mutuel field be officially withdrawn or scratched, the remaining contestants in that coupled entry or mutuel field shall remain valid betting interests and no refunds will be granted. If all contestants within a coupled entry or mutuel field are scratched, then tickets on such betting interests shall be refunded, notwithstanding other provisions of these rules.

*b.* For the purpose of price calculations only, coupled entries and mutuel fields shall be calculated as a single finisher, using the finishing position of the leading contestant in that coupled entry or mutuel field to determine order of placing. This rule shall apply to all circumstances, including situations involving a dead heat, except as otherwise provided by these rules.

**8.2(13)** *Pools dependent upon betting interests.* Unless the administrator otherwise provides, at the time the pools are opened for wagering, the facility:

*a.* May offer win, place, and show wagering on all contests with six or more betting interests.

*b.* May prohibit show wagering on any contest with five or fewer betting interests scheduled to start.

*c.* May prohibit place wagering on any contest with four or fewer betting interests scheduled to start.

*d.* May prohibit quinella wagering on any contest with three or fewer betting interests scheduled to start.

*e.* May prohibit quinella double wagering on any contests with three or fewer betting interests scheduled to start.

*f.* May prohibit exacta wagering on any contest with three or fewer betting interests scheduled to start.

*g.* May prohibit trifecta wagering on any contest with five or fewer betting interests scheduled to start, or as provided in subparagraph 8.2(13)*"g"*(1) below:

(1) Cancel trifecta. The stewards have the authority to cancel trifecta wagering at any time they determine an irregular pattern of wagering or determine that the conduct of the race would not be in the interest of the regulation of the pari-mutuel wagering industry or in the public confidence in racing. The stewards may approve smaller fields for trifecta wagering if extraneous circumstances are shown by the facility.

(2) Reserved.

*h.* May prohibit superfecta wagering on any contest with seven or fewer betting interests scheduled to start.

*i.* May prohibit twin quinella wagering on any contests with three or fewer betting interests scheduled to start.

*j.* May prohibit twin trifecta wagering on any contests with seven or fewer betting interests scheduled to start, except as provided in subparagraph 8.2(13)*"g"*(1).

*k.* May prohibit tri-superfecta wagering on any contests with seven or fewer betting interests scheduled to start.

*l.* May prohibit twin superfecta wagering on any contests with seven or fewer betting interests scheduled to start.

**8.2(14)** *Prior approval required for betting pools.*

*a.* A facility that desires to offer new forms of wagering must apply in writing to the administrator and receive written approval prior to implementing the new betting pool.

*b.* The facility may suspend previously approved forms of wagering with the prior approval of the administrator. Any carryover shall be held until the suspended form of wagering is reinstated. A facility may request approval of a form of wagering or separate wagering pool for specific requirements.

**8.2(15)** *Closing of wagering in a contest.*

*a.* All wagering shall stop and all pari-mutuel machines shall be locked at post time or at the actual start of the races. Machines shall be automatically locked, unless unusual circumstances dictate that the stewards act differently.

*b.* The facility shall maintain, in good order, a system approved by the administrator for closing wagering.

**8.2(16)** *Complaints pertaining to pari-mutuel operations.*

*a.* When a patron makes a complaint to a facility regarding the mutuel department, the facility shall immediately issue a complaint report, setting out:

(1) The name of the complainant;

(2) The nature of the complaint;

(3) The name of the persons, if any, against whom the complaint was made;

(4) The date of the complaint;

(5) The action taken or proposed to be taken, if any, by the facility.

*b.* The facility shall submit every complaint report to the commission within five days after the complaint was made.

**8.2(17)** *Facility/vendor employees.* All facility/vendor employees shall report immediately to the administrator any known irregularities or wrongdoings by any person involving pari-mutuel wagering and shall cooperate in subsequent investigations.

**8.2(18)** *Unrestricted access.* The facility shall permit the commission unrestricted access at all times to its facilities and equipment and to all books, ledgers, accounts, documents and records of the facility that relate to pari-mutuel wagering.

**8.2(19)** *Totalizator breakdown.* In the event of irreparable breakdown of the totalizator during the wagering on a race, the wagering on that race shall be declared closed and the payoff shall be computed on the sums wagered in each pool up to the time of the breakdown.

**8.2(20)** *Minimum wager and payoff.* The minimum wager to be accepted by any licensed facility for win, place and show wagering shall be $2. The minimum payoff on a $2 wager shall be $2.20. For all other wagers, the minimum wager to be accepted by any licensed facility shall be $1. The minimum payoff for a $1 wager shall be $1.10. Any deviation from these minimums must be approved by the administrator. In cases where a minus pool occurs, the facility is responsible for the payment of the minimum payoff and no breakage shall be incurred from that pari-mutuel pool.

**8.2(21)** *Minors prohibited from wagering.* No minor shall be permitted by any licensed facility to purchase or cash a pari-mutuel ticket.

**8.2(22)** *Emergency situations.* In the event of an emergency in connection with the mutuel department not covered in these rules, the pari-mutuel manager representing the facility shall report the problem to the stewards, and the stewards shall render a full report to the administrator or administrator's designee within 48 hours.

**8.2(23)** *Commission mutuel supervisor.* The commission may employ a mutuel supervisor with accounting experience to serve as the commission's designated representative at each race meeting as provided in Iowa Code section 99D.19. In the absence of a specifically appointed commission mutuel supervisor, the board of stewards or simulcast steward will perform the functions and duties of the commission.

[**ARC 0734C**, IAB 5/15/13, effective 6/19/13; **ARC 1876C**, IAB 2/18/15, effective 3/25/15]

**491—8.3(99D) Approval of pari-mutuel wagers.**

**8.3(1)** *Pools permitted.* All pari-mutuel wagering pools approved by the commission shall be separately and independently calculated and distributed. Takeout shall be deducted from each gross pool as stipulated by Iowa Code section 99D.11. The remainder of the moneys in the pool shall constitute the net pool for distribution as payoff on winning wagers.

**8.3(2)** *Pari-mutuel wagering submissions.* Prior to conducting a new pari-mutuel wager, a facility shall submit proposals for the wager including, but not limited to, the wager type, calculation of payoff, refunds and distribution of pools. The wager submission, or requests for modification to an approved wager, shall be in writing and approved by the administrator or an administrator's designee prior to implementation.

**8.3(3)** *Public notice.* The public shall have access to the wagering rules and the calculation of payoffs and distribution of pools which are approved by the commission. Signage shall be conspicuously posted in the wagering area to direct patrons to the wagering area where this information can be viewed.

[**ARC 0734C**, IAB 5/15/13, effective 6/19/13]

**491—8.4(99D) Simulcast wagering.**

**8.4(1)** *General.*

*a.* *Rules.* All simulcasting must be transmitted live, and all wagering on simulcasting shall be made in accordance with the commission rules on pari-mutuel wagering. Commission rules in effect during live racing shall remain in effect during simulcasting where applicable.

*b.* *Transmission.* The method used to transmit sales transaction and data including, but not limited to, the odds, will pay, race results, and payoff prices must be approved by the commission, based upon the determination that provisions to secure the system and transmission are satisfactory.

*c.* *Communication.* A communication system between the host track and the receiving facility must be provided which will allow the totalizator operator and the commission representatives at the host track to communicate with the facility receiving the signal. The facility is responsible during the racing program's operating hours for reporting any problems or delays to the public.

*d.* *Approval.*

(1) All simulcasting, both interstate and intrastate, must be preapproved by the commission or commission representative. Each facility conducting simulcasting shall submit an annual written simulcast proposal to the commission with the application for license renewal required by 491—Chapter 1.

(2) The commission representative, upon written request, may grant modifications to the annual simulcast proposal. The commission representative may approve or disapprove simulcast requests at the representative's discretion. Factors that may be considered include, but are not limited to, economic conditions of a facility, impact on other facilities, impact on the Iowa breeding industry, other gambling in the state, and any other considerations the commission representative deems appropriate.

(3) Once simulcast authority has been granted by the commission or commission representative, it shall be the affirmative responsibility of the facility granted simulcast authority to obtain all necessary permission from other states and tracks to simulcast the pari-mutuel races. In addition, the burden of adhering to state and federal laws concerning simulcasting rests on the facility at all times.

**8.4(2)** *Simulcast host.*

*a.* Every host facility, if requested, may contract with an authorized receiver for the purpose of providing authorized users its simulcast. All contracts governing participation in interstate or intrastate pools shall be submitted to the commission representative for prior approval. Contracts shall be of such content and in such format as required by the commission representative.

*b.* A host facility is responsible for the content of the simulcast and shall use all reasonable effort to present a simulcast which offers the viewers an exemplary depiction of each performance.

*c.* Unless otherwise permitted by the commission representative, every simulcast will contain in its video content a digital display of actual time of day, the name of the host facility from which the simulcast originates, the number of the contest being displayed, and any other relevant information available to patrons at the host facility.

*d.* The host facility shall maintain such security controls, including encryption over its uplink and communications systems, as directed or approved by the commission or commission representative.

*e.* Financial reports shall be submitted daily or as otherwise directed by the commission representative. Reports shall be of such content and in such format as required by the commission representative.

**8.4(3)** *Authorized receiver.*

*a.* An authorized receiver shall provide:

(1) Adequate transmitting and receiving equipment of acceptable broadcast quality which shall not interfere with the closed circuit TV system of the host facility for providing any host facility patron information.

(2) Pari-mutuel terminals, pari-mutuel odds displays, modems and switching units enabling pari-mutuel data transmissions, and data communications between the host and guest facilities.

(3) A voice communication system between each guest facility and the host facility providing timely voice contact among the commission representative, placing judges, and mutuel departments.

*b.* The guest facility and all authorized receivers shall conduct pari-mutuel wagering pursuant to the applicable commission rules.

*c.* Not less than 30 minutes prior to the commencement of transmission of the performance of pari-mutuel contests, the guest facility shall initiate a test program of its transmitter, encryption and decoding, and data communication to ensure proper operation of the system.

*d.* The guest facility shall, in conjunction with the host facility(ies) for which it operates pari-mutuel wagering, provide the commission representative with a certified report of its pari-mutuel operations as directed by the commission representative.

*e.* Every authorized receiver shall file with the commission an annual report of its simulcast operations and an audited financial statement.

*f.* The mutuel manager shall notify the commission representative when the transfer of pools, pool totals, or calculations are in question, or if partial or total cancellations occur, and shall suggest alternatives for continued operation. Should loss of video signal occur, wagering may continue with approval from the commission representative.

[**ARC 0734C**, IAB 5/15/13, effective 6/19/13]

**491—8.5(99D) Interstate common-pool wagering.**

**8.5(1)** *General.*

*a.* All contracts governing participation in interstate common pools shall be submitted to the commission representative for prior approval. Financial reports shall be submitted daily or as otherwise directed by the commission representative. Contracts and reports shall be of such content and in such format as required by the commission representative.

*b.* Individual wagering transactions are made at the point of sale in the state where placed. Pari-mutuel pools are combined for computing odds and calculating payoffs but will be held separate for auditing and all other purposes.

*c.* Any surcharges or withholdings in addition to the takeout shall be applied only in the jurisdiction otherwise imposing such surcharges or withholdings.

*d.* In determining whether to approve an interstate common pool which does not include the host facility or which includes contests from more than one facility, the commission representative shall consider and may approve use of a bet type which is not utilized at the host facility, application of a takeout rate not in effect at the host facility, or other factors which are presented to the commission representative.

*e.* The content and format of the visual display of racing and wagering information at facilities in other jurisdictions where wagering is permitted in the interstate common pool need not be identical to the similar information permitted or required to be displayed under these rules.

**8.5(2)** *Guest state participation in interstate common pools.*

*a.* With the prior approval of the commission representative, pari-mutuel wagering pools may be combined with corresponding wagering pools in the host state or with corresponding pools established by one or more other jurisdictions.

*b.* The commission representative may permit adjustment of the takeout from the pari-mutuel pool so that the takeout rate in this jurisdiction is identical to that of the host facility or identical to that of other jurisdictions participating in a merged pool.

*c.* When takeout rates in the merged pools are not identical, the net-price calculation shall be the method by which the differing takeout rates are applied.

*d.* Rules established in the state of the host facility designated for a pari-mutuel pool shall apply.

*e.* The commission representative shall approve agreements made between the facility and other participants in interstate common pools governing the distribution of breakage between the jurisdictions.

*f.* If, for any reason, it becomes impossible to successfully merge the bets placed into the interstate common pool, the facility shall make payoffs in accordance with payoff prices that would have been in effect if prices for the pool of bets were calculated without regard to wagers placed elsewhere, except that, with the permission of the commission representative, the facility may alternatively determine either to pay winning tickets at the payoff prices at the host facility or to declare such accepted bets void and make refunds in accordance with the applicable rules.

**8.5(3)** *Host state participation in merged pools.*

*a.* With the prior approval of the commission representative, a facility licensed to conduct pari-mutuel wagering may determine that one or more of its contests be utilized for pari-mutuel wagering at guest facilities in other states and may also determine that pari-mutuel pools in guest states be combined with corresponding wagering pools established by it as the host facility or comparable wagering pools established by two or more states.

*b.* When takeout rates in the merged pool are identical, the net-price calculation shall be the method by which the differing takeout rates are applied.

*c.* Rules of racing established for races held in this state shall also apply to interstate common pools unless the commission representative specifically determines otherwise.

*d.* The commission representative shall approve agreements made between the facility and other participants in interstate common pools governing the distribution of breakage between the jurisdictions.

*e.* Any contract for interstate common pools entered into by the facility shall contain a provision to the effect that if, for any reason, it becomes impossible to successfully merge the bets placed in another state into the interstate common pool formed by the facility or if, for any reason, the commission representative or facility determines that attempting to effect transfer of pool data from the guest state may endanger the facility's wagering pool, the facility shall have no liability for any measure taken which may result in the guest's wagers not being accepted into the pool.

**8.5(4)** *Takeout rates in interstate common pools.*

*a.* With the prior approval of the commission representative, a facility wishing to participate in an interstate common pool may change its takeout rate so as to achieve a common takeout rate with all other participants in the interstate common pool.

*b.* A facility wishing to participate in an interstate common pool may request that the commission representative approve a methodology whereby host facility and guest facility states with different takeout rates for corresponding pari-mutuel pools may effectively and equitably combine wagers from the different states into an interstate common pool.

[**ARC 0734C**, IAB 5/15/13, effective 6/19/13]

**491—8.6(99D) Advance deposit wagering.**

**8.6(1)** *Authorization to conduct advance deposit wagering.*

*a.* A licensee may request authorization from the commission to conduct advance deposit wagering pursuant to Iowa Code section 99D.11(6)*"c"* and these rules. As part of the request, the licensee shall submit a detailed plan of how its advance deposit wagering system would operate. The commission may require changes in a proposed plan of operations as a condition of granting a request. No subsequent changes in the system's operation may occur unless ordered by the commission or until approval is obtained from the commission after it receives a written request.

*b.* The commission may conduct investigations or inspections or request additional information from the licensee as the commission deems appropriate in determining whether to allow the licensee to conduct advance deposit wagering.

*c.* The licensee shall establish and manage an advance deposit wagering center.

*d.* The commission may issue an ADWO license to an entity that enters into an agreement with the commission, the licensee, and the Iowa Horsemen's Benevolent and Protective Association. The terms of any ADWO's license shall include but not be limited to:

(1) Any source market fees and host fees to be paid on any races subject to advance deposit wagering.

(2) An annual ADWO license fee in an amount to be determined by the commission.

(3) Completion of all necessary background investigations.

(4) Acceptance of wagers on live races conducted at the horse racetrack in Polk County from all of its licensee account holders.

(5) A bond or irrevocable letter of credit on behalf of the ADWO to be determined by the commission.

(6) A detailed description and certification of systems and procedures used by the ADWO to validate the identity and age of licensee account holders and to validate the legality of wagers accepted.

(7) Certification of prompt commission access to all records relating to licensee account holder identity and age in hard-copy or standard electronic format acceptable to the commission.

(8) Certification of secure retention of all records related to advance deposit wagering and accounts for a period of not less than three years or such longer period as specified by the commission.

(9) Utilization and communication of pari-mutuel wagers to a pari-mutuel system meeting all requirements for pari-mutuel systems employed by licensed racing facilities in Iowa.

*e.* Commission access to and use of information concerning advance deposit wager transactions and licensee account holders shall be considered proprietary, and such information shall not be disclosed publicly except as may be required pursuant to statute or court order or except as part of the official record of any proceeding before the commission. This requirement shall not prevent the sharing of this information with other pari-mutuel regulatory authorities or law enforcement agencies for investigative purposes.

*f.* For each advance deposit wager made for an account by telephone, the licensee or ADWO shall make a voice recording of the entire transaction and shall not accept any such wager if the voice-recording system is inoperable. Voice recordings shall be retained for not less than six months and shall be made available to the commission for investigative purposes.

**8.6(2)** *Establishing an account.*

*a.* A person must have an established account in order to place advance deposit wagers. An account may be established in person at the licensee's facility or with the ADWO by mail or electronic means. For establishing an account, the application must be signed or otherwise authorized in a manner acceptable to the commission and shall include the applicant's full legal name, principal residence address, telephone number, and date of birth and any other information required by the commission.

*b.* Each application submitted will be subject to electronic verification with respect to the applicant's name, principal residence address and date of birth by either a national, independent individual reference service company or by means of a technology which meets or exceeds the reliability, security, accuracy, privacy and timeliness provided by individual reference service companies. An applicant's social security number may be necessary for completion of the verification process and for tax-reporting purposes. If there is a discrepancy between the application submitted and the information provided by the electronic verification or if no information on the applicant is available from such electronic verification, another individual reference service may be accessed or another technology meeting the requirements described above may be used to verify the information provided. If these measures prove unsatisfactory, then the applicant will be contacted and given instructions as to how to resolve the matter.

*c.* The identity of a licensee account holder must be verified via electronic means or copies of other documents before the licensee account holder may place an advance deposit wager.

*d.* Each account shall have a unique identifying account number. The identifying account number may be changed at any time by the licensee or ADWO provided that the licensee or ADWO informs the licensee account holder in writing prior to the change.

*e.* The applicant shall provide the licensee or ADWO with an alpha-numeric code to be used as a secure personal identification code when the licensee account holder is placing an advance deposit wager. The licensee account holder has the right to change this code at any time.

*f.* The licensee account holder shall receive at the time the account is approved a unique account identification number; a copy of the advance deposit wagering rules and such other information and material pertinent to the operation of the account; and such other information as the licensee, ADWO or commission may deem appropriate.

*g.* The account is nontransferable.

*h.* The licensee or ADWO may close or refuse to open an account for what it deems good and sufficient reason and shall order an account closed if it is determined that information used to open an account was false or that the account has been used in violation of these rules or the licensee's or ADWO's terms and conditions.

**8.6(3)** *Operation of an account.* The ADWO shall submit operating procedures with respect to licensee account holder accounts for commission approval.

[**ARC 9897B**, IAB 12/14/11, effective 11/15/11; **ARC 9987B**, IAB 2/8/12, effective 3/14/12; **ARC 0734C**, IAB 5/15/13, effective 6/19/13]

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# CHAPTER 10
# THOROUGHBRED AND QUARTER HORSE RACING

**491—10.1(99D) Terms defined.** As used in the rules, unless the context otherwise requires, the following definitions apply:

*"Age"* means the age of a horse reckoned from the first day of January of the year of foaling.

*"Allowance race"* means an overnight race for which eligibility and weight to be carried are determined according to specified conditions that include age, sex, earnings, and number of wins.

*"Also eligible"* means:

1. A number of eligible horses, properly entered, which were not drawn for inclusion in a race but which become eligible according to preference or lot when an entry is scratched prior to the scratch time deadline; or

2. The next preferred nonqualifier for the finals or consolation from a set of elimination trials that will become eligible in the event a finalist is scratched by the stewards for a rule violation or is otherwise eligible if written race conditions permit.

*"Appeal"* means a request for the commission or its designee to investigate, consider, and review any decisions or rulings of stewards.

*"Arrears"* means all moneys owed by a licensee, including subscriptions, jockey fees, forfeitures, and any default incident to these rules.

*"Authorized agent"* means a person licensed by the commission and appointed by a written instrument, signed and acknowledged before a notary public by the owner on whose behalf the agent will act.

*"Bleeder"* means a horse that hemorrhages from within the respiratory tract during a race, within one and one-half hours postrace, during exercise or within one and one-half hours of exercise.

*"Bleeder list"* means a tabulation of all bleeders to be maintained by the commission.

*"Chemist"* means any official racing chemist designated by the commission.

*"Claiming race"* means a race in which any horse starting may be claimed (purchased for a designated amount) in conformance with the rules. (See also waived claiming rule in paragraph 10.6(18)*"k."*)

*"Commission"* means the racing and gaming commission.

*"Conditions"* means qualifications that determine a horse's eligibility to be entered in a race.

*"Contest"* means a competitive racing event on which pari-mutuel wagering is conducted.

*"Coupled entry"* means two or more contestants in a contest that are treated as a single betting interest for pari-mutuel wagering purposes. (See also "Entry.")

*"Day"* means a 24-hour period ending at midnight.

*"Dead heat"* means when the noses of two or more horses reach the finish line of a race at the same time.

*"Declaration"* means the act of withdrawing an entered horse from a race prior to the closing of entries.

*"Detention barn"* means the barn designated for the collection from horses of test samples under the supervision of the commission veterinarian; also the barn assigned by the commission to a horse on the bleeder list, for occupancy as a prerequisite for receiving bleeder medication.

*"Entry"* means a horse made eligible to run in a race; or two or more horses, entered in the same race, which have common ties of ownership, lease, or training. (See also "Coupled entry.")

*"Facility"* means an entity licensed by the commission to conduct pari-mutuel wagering or gaming operations in Iowa.

*"Facility premises"* means all real property utilized by the facility in the conduct of its race meeting, including the racetrack, grandstand, concession stands, offices, barns, stable area, employee housing facilities, parking lots, and any other areas under the jurisdiction of the commission.

*"Field or mutuel field"* means a group of two or more horses upon which a single bet may be placed. A mutuel field is required when the number of horses starting in a race exceeds the capacity of the track

totalizator. The highest numbered horse within the totalizator capacity and all the higher-numbered horses following are then grouped together in the mutuel field.

*"Foreign substances"* means all substances except those that exist naturally in the untreated horse at normal physiological concentration.

*"Forfeit"* means money due from a licensee because of an error, fault, neglect of duty, breach of contract, or penalty imposed by the stewards or the commission.

*"Handicap"* means a race in which the weights to be carried by the horses are assigned by the racing secretary or handicapper for the purpose of equalizing the chances of winning for all horses entered.

*"Horse"* means any equine (including equine designated as a mare, filly, stallion, colt, ridgeling, or gelding) registered for racing; specifically, an entire male 5 years of age and older.

*"Hypodermic injection"* means any injection into or under the skin or mucosa, including intradermal injection, subcutaneous injection, submucosal injection, intramuscular injection, intravenous injection, intra-arterial injection, intra-articular injection, intrabursal injection, and intraocular (intraconjunctival) injection.

*"Inquiry"* means an investigation by the stewards of potential interference in a contest prior to declaring the result of said contest official.

*"Jockey"* means a professional rider licensed to ride in races.

*"Licensee"* means any person or entity licensed by the commission to engage in racing or related regulated activity.

*"Maiden race"* means a contest restricted to nonwinners.

*"Meet/meeting"* means the specified period and dates each year during which a facility is authorized by the commission to conduct pari-mutuel wagering on horse racing.

*"Month"* means a calendar month.

*"Nomination"* means the naming of a horse to a certain race or series of races generally accompanied by payment of a prescribed fee.

*"Nominator"* means the person or entity in whose name a horse is nominated for a race or series of races.

*"Objection"* means:

1. A written complaint made to the stewards concerning a horse entered in a race and filed not later than one hour prior to the scheduled post time of the first race on the day in which the questioned horse is entered; or

2. A verbal claim of foul in a race lodged by the horse's jockey, trainer, owner, or the owner's authorized agent before the race is declared official.

*"Official starter"* means the official responsible for dispatching the horses for a race.

*"Official time"* means the elapsed time from the moment the first horse crosses the starting point until the first horse crosses the finish line.

*"Overnight race"* means a race for which entries close 96 hours, or less, before the time set for the first race of the day on which the race is to be run.

*"Owner"* means a person or entity that holds any title, right or interest, whole or partial, in a horse, including the lessee and lessor of a horse.

*"Paddock"* means an enclosure in which horses scheduled to compete in a contest are saddled prior to racing.

*"Performance"* means a schedule of 8 to 12 races per day unless otherwise authorized by the commission.

*"Post position"* means the preassigned position from which a horse will leave the starting gate.

*"Post time"* means the scheduled starting time for a contest.

*"Prize"* means the combined total of any cash, premium, trophy, and object of value awarded to the owners of horses according to order of finish in a race.

*"Purse"* means the total cash amount for which a race is contested.

*"Purse race"* means a race for money or other prize to which the owners of horses entered do not contribute money toward its purse and for which entries close less than 96 hours prior to its running.

*"Race"* means a running contest between horses ridden by jockeys for a purse, prize, or other reward run at a facility in the presence of the stewards of the meeting. This includes purse races, overnight races and stakes races.

*"Recognized meeting"* means any meeting with regularly scheduled races for horses on the flat in a jurisdiction having reciprocal relations with this state and the commission for the mutual enforcement of rulings relating to horse racing.

*"Rules"* means the rules promulgated by the commission to regulate the conduct of horse racing.

*"Scratch"* means the act of withdrawing an entered horse from a contest after the closing of entries.

*"Scratch time"* means the deadline set by the facility for withdrawal of entries from a scheduled performance.

*"Smoke"* means the procedure of reviewing entries for correctness, eligibility, weight allowances, and medications.

*"Stakes race"* means a contest in which nomination, entry, and starting fees contribute to the purse.

*"Starter"* means a horse that becomes an actual contestant in a race by virtue of the starting gate opening in front of it upon dispatch by the official starter.

*"Steward"* means a duly appointed racing official with powers and duties specified by rules.

*"Subscription"* means moneys paid for nomination, entry, eligibility, or starting of a horse in a stakes race.

*"Test level"* means the concentration of a foreign substance found in the test sample.

*"Test sample"* means any bodily substance including, but not limited to, blood or urine taken from a horse under the supervision of the commission veterinarian and as prescribed by the commission for the purpose of analysis.

*"Totalizator"* means the system used for recording, calculating, and disseminating information about ticket sales, wagers, odds, and payoff prices to patrons at a pari-mutuel wagering facility.

*"Veterinarian"* means a veterinarian holding a current unrestricted license issued by the state of Iowa veterinary regulatory authority and licensed by the commission.

*"Winner"* means the horse whose nose reaches the finish line first or is placed first through disqualification by the stewards.

*"Year"* means a calendar year.

[**ARC 9987B**, IAB 2/8/12, effective 3/14/12]

**491—10.2(99D) Facilities' responsibilities.**

**10.2(1)** *Stalls.* The facility shall ensure that racing animals are stabled in individual box stalls; that the stables and immediate surrounding area are maintained in approved sanitary condition at all times; that satisfactory drainage is provided; and that manure and other refuse are kept in separate boxes or containers at locations distant from living quarters and promptly and properly removed.

**10.2(2)** *Paddocks and equipment.* The facility shall ensure that paddocks, starting gates, and other equipment subject to contact by different animals are kept in a clean condition and free of dangerous surfaces.

**10.2(3)** *Receiving barn and stalls.* Each facility shall provide a conveniently located receiving barn or stalls for the use of horses arriving during the meeting. The barn shall have adequate stable room and facilities, hot and cold water, and stall bedding. The facility shall employ attendants to operate and maintain the receiving barn or stalls in a clean and healthy condition.

**10.2(4)** *Fire protection.* The facility shall develop and implement a program for fire prevention on facility premises in accordance with applicable state fire codes. The facility shall instruct employees working on facility premises in procedures for fire prevention and evacuation. The facility shall, in accordance with state fire codes, prohibit the following:

*a.* Smoking in horse stalls, feed and tack rooms, and in the alleyways.

*b.* Sleeping in feed rooms or stalls.

*c.* Open fires and oil- or gasoline-burning lanterns or lamps in the stable area.

*d.* Leaving any electrical appliance unattended or in unsafe proximity to walls, beds, or furnishings.

*e.* Keeping flammable materials, including cleaning fluids or solvents, in the stable area.

*f.* Locking a stall which is occupied by a horse.

The facility shall post a notice in the stable area which lists the prohibitions outlined in 10.2(4)*"a"* to *"f"* above.

**10.2(5)** *Starting gate.*

*a.* During racing hours a facility shall provide at least two operable padded starting gates that have been approved by the commission.

*b.* During designated training hours a facility shall make at least one starting gate and qualified starting gate employee available for schooling.

*c.* If a race is started at a place other than in a chute, the facility shall provide and maintain in good operating condition backup equipment for moving the starting gate. The backup equipment must be immediately available to replace the primary moving equipment in the event of failure.

**10.2(6)** *Distance markers.*

*a.* A facility shall provide and maintain starting point markers and distance poles in a size and position that can be clearly seen from the steward's stand.

*b.* The starting point markers and distance poles must be marked as follows:

| | |
|---|---|
| 1/4 poles | red and white horizontal stripes |
| 1/8 poles | green and white horizontal stripes |
| 1/16 poles | black and white horizontal stripes |
| 220 yards | green and white |
| 250 yards | blue |
| 300 yards | yellow |
| 330 yards | black and white |
| 350 yards | red |
| 400 yards | black |
| 440 yards | red and white |
| 550 yards | black and white horizontal stripes |
| 660 yards | green and white horizontal stripes |
| 770 yards | black and white horizontal stripes |
| 870 yards | blue and white horizontal stripes |

**10.2(7)** *Detention enclosure.* Each facility shall maintain a detention enclosure for use by the commission for securing samples of urine, saliva, blood, or other bodily substances or tissues for chemical analysis from horses who have run in a race. The enclosure shall include a wash rack, commission veterinarian office, a walking ring, at least four stalls, workroom for the sample collectors with hot and cold running water, and glass observation windows for viewing of the horses from the office and workroom. An owner, trainer, or designated representative licensed by the commission shall be with a horse in the detention barn at all times.

**10.2(8)** *Ambulance.* A facility shall maintain, on the premises during every day that its track is open for racing or exercising, an ambulance for humans and an ambulance for horses, equipped according to prevailing standards and staffed by medical doctors, paramedics, or other personnel trained to operate them. When an ambulance is used for transfer of a horse or patient to medical facilities, a replacement ambulance must be furnished by the facility to comply with this rule.

**10.2(9)** *Helmets and vests.* A facility shall not allow any person on horseback on facility grounds unless that person is wearing a protective helmet and safety vest of a type approved by the commission.

**10.2(10)** *Racetrack.*

*a.* The surface of a racetrack, including cushion, subsurface, and base, must be designed, constructed, and maintained to provide for the safety of the jockeys and racing animals.

*b.* Distances to be run shall be measured from the starting line at a distance three feet out from the inside rail.

*c.* A facility shall provide an adequate drainage system for the racetrack.

*d.* A facility shall provide adequate equipment and personnel to maintain the track surface in a safe training and racing condition. The facility shall provide backup equipment for maintaining the track surface. A facility that conducts races on a turf track shall:

(1) Maintain an adequate stockpile of growing medium; and

(2) Provide a system capable of adequately watering the entire turf course evenly.

*e.* Rails.

(1) Racetracks, including turf tracks, shall have inside and outside rails, including gap rails, designed, constructed, and maintained to provide for the safety of jockeys and horses. The design and construction of rails must be approved by the commission prior to the first race meeting at the track.

(2) The top of the rail must be at least 38 inches but not more than 44 inches above the top of the cushion. The inside rail shall have no less than a 24-inch overhang with a continuous smooth cover.

(3) All rails must be constructed of materials designed to withstand the impact of a horse running at a gallop.

**10.2(11)** *Patrol films or video recordings.* Each facility shall provide:

*a.* A video recording system approved by the commission. Cameras must be located to provide clear panoramic and head-on views of each race. Separate monitors, which simultaneously display the images received from each camera and are capable of simultaneously displaying a synchronized view of the recordings of each race for review, shall be provided in the stewards' stand. The location and construction of video towers must be approved by the commission.

*b.* One camera, designated by the commission, to record the prerace loading of all horses into the starting gate and to continue to record until the field is dispatched by the starter.

*c.* One camera, designated by the commission, to record the apparent winner of each race from the finish line until the horse has returned, the jockey has dismounted, and the equipment has been removed from the horse.

*d.* At the discretion of the stewards, video camera operators to record the activities of any horses or persons handling horses prior to, during, or following a race.

*e.* That races run on an oval track be recorded by at least three video cameras. Races run on a straight course must be recorded by at least two video cameras.

*f.* Upon request of the commission, without cost, a copy of a video recording of a race.

*g.* That video recordings recorded prior to, during, and following each race be maintained by the facility for not less than six months after the end of the race meeting, or such other period as may be requested by the stewards or the commission.

*h.* A viewing room in which, on approval by the stewards, an owner, trainer, jockey, or other interested individual may view a video recording of a race.

*i.* Following any race in which there is an inquiry or objection, the video recorded replays of the incident in question which were utilized by the stewards in making their decision. The facility shall display to the public these video recorded replays on designated monitors.

**10.2(12)** *Communications.*

*a.* Each facility shall provide and maintain in good working order a communication system between:

(1) The stewards' stand;

(2) The racing office;

(3) The tote room;

(4) The jockeys' room;

(5) The paddock;

(6) The test barn;

(7) The starting gate;

(8) The weigh-in scale;

(9) The video camera locations;

(10) The clocker's stand;
(11) The racing veterinarian;
(12) The track announcer;
(13) The location of the ambulances (equine and human); and
(14) Other locations and persons designated by the commission.

*b.* A facility shall provide and maintain a public address system capable of clearly transmitting announcements to the patrons and to the stable area.

**491—10.3(99D) Facility policies.** It shall be the affirmative responsibility and continuing duty of each occupational licensee to follow and comply with the facility policies as published in literature distributed by the facility or posted in a conspicuous location.

**491—10.4(99D) Racing officials.**

**10.4(1)** *General description.* Every facility conducting a race meeting shall appoint at least the following officials:

*a.* One of the members of a three-member board of stewards;
*b.* Racing secretary;
*c.* Assistant racing secretary;
*d.* Paddock judge;
*e.* Horse identifier;
*f.* Starter;
*g.* Clocker/timer;
*h.* Three placing judges;
*i.* Jockey room custodian;
*j.* Mutuel manager;
*k.* Clerk of scales;
*l.* Minimum of two outriders;
*m.* Horsemen's bookkeeper;
*n.* Any other person designated by the commission.

**10.4(2)** *Officials' prohibited activities.* No racing official or racing official's assistant(s) listed in 10.4(1) while serving in that capacity during any meeting may engage in any of the following:

*a.* Enter into a business or employment that would be a conflict of interest, interfere with, or conflict with the proper discharge of duties including a business that does business with a facility or a business issued a concession operator's license;

*b.* Participate in the sale, purchase, or ownership of any horse racing at the meeting;

*c.* Be involved in any way in the purchase or sale of any contract on any jockey racing at the meeting;

*d.* Sell or solicit horse insurance on any horse racing at the meeting, or any other business sales or solicitation not a part of the official's duties;

*e.* Wager on the outcome of any race under the jurisdiction of the commission;

*f.* Accept or receive money or anything of value for the official's assistance in connection with the official's duties;

*g.* Consume or be under the influence of alcohol or any prohibited substance while performing official duties.

**10.4(3)** *Single official appointment.* No official appointed to any meeting, except placing judges, may hold more than one official position listed in 10.4(1) unless, in the determination of the stewards or commission, the holding of more than one appointment would not subject the official to a conflict of interest or duties in the two appointments.

**10.4(4)** *Stewards.* (For practice and procedure before the stewards and the commission, see 491—Chapter 4.)

*a.* *General authority.*

(1) General. The board of stewards for each racing meet shall be responsible to the commission for the conduct of the racing meet in accordance with the laws of this state and the rules adopted by the commission. The stewards shall have authority to regulate and to resolve conflicts or disputes between all other racing officials, licensees, and those persons addressed by 491—paragraph 4.6(5)*"e,"* which are reasonably related to the conduct of a race or races and to discipline violators of these rules in accordance with the provisions of these rules.

(2) Period of authority. The stewards' authority as set forth in this subrule shall commence 30 days prior to the beginning of each racing meet and shall terminate 30 days after the end of each racing meet or with the completion of their business pertaining to the meeting.

(3) Attendance. All three stewards shall be present in the stand during the running of each race.

(4) Appointment of substitute. Should any steward be absent at race time, the state steward(s) shall appoint a deputy for the absent steward. If any deputy steward is appointed, the commission shall be notified immediately by the stewards.

(5) Initiate action. The stewards shall take notice of questionable conduct or rule violations, with or without complaint, and shall initiate investigations promptly and render a decision on every objection and every complaint made to them.

(6) General enforcement provisions. Stewards shall enforce the laws of Iowa and the rules of the commission. The laws of Iowa and the rules of racing apply equally during periods of racing. They supersede the conditions of a race and the regulations of a racing meet and, in matters pertaining to racing, the orders of the stewards supersede the orders of the officers of the facility. The decision of the stewards as to the extent of a disqualification of any horse in any race shall be final for purposes of distribution of the pari-mutuel pool. The administrative standard of review for a disqualification decision is abuse of discretion.

*b. Other powers and authority.*

(1) The stewards shall have the power to interpret the rules and to decide all questions not specifically covered by them.

(2) All questions within their authority shall be determined by a majority of the stewards.

(3) The stewards shall have control over and access to all areas of the facility premises.

(4) The stewards shall have the authority to determine all questions arising with reference to entries and racing. Persons entering horses to run at licensed facilities agree in so doing to accept the decision of the stewards on any questions relating to a race or racing. The stewards, in their sole discretion, are authorized to determine whether two or more individuals or entities are operating as a single financial interest or as separate financial interests. In making this determination, the stewards shall consider all relevant information including, but not limited to, the following:

1. Whether the parties pay bills from and deposit receipts in the same accounts.

2. Whether the parties share resources such as employees, feed, supplies, veterinary and farrier services, exercise and pony riders, tack, and equipment.

3. Whether the parties switch horses or owner/trainer for no apparent reason, other than to avoid restrictions of being treated as a single interest.

4. Whether the parties engage in separate racing operations in other jurisdictions.

5. Whether the parties have claimed horses, or transferred claimed horses after the fact, for the other's benefit.

6. If owners, whether one owner is paying the expenses for horses not in the owner's name as owner.

7. If trainers, whether the relationship between the parties is more consistent with that of a trainer and assistant trainer.

(5) The stewards shall have the authority to discipline, for violation of the rules, any person subject to their control and, in their discretion, to impose fines or suspensions or both for infractions.

(6) The stewards shall have the authority to order the exclusion or ejection from all premises and enclosures of the facility any person who is disqualified for corrupt practices on any race course in any country.

(7) The stewards shall have the authority to call for proof that a horse is itself not disqualified in any respect, or nominated by, or, wholly or in part, the property of, a disqualified person. In default of proof being given to their satisfaction, the stewards may declare the horse disqualified.

(8) The stewards shall have the authority at any time to order an examination of any horse entered for a race or which has run in a race.

(9) In order to maintain necessary safety and health conditions and to protect the public confidence in horse racing as a sport, the stewards have the authority to authorize a person(s) on their behalf to enter into or upon the buildings, barns, motor vehicles, trailers, or other places within the premises of a facility, to examine same, and to inspect and examine the person, personal property, and effects of any person within such place, and to seize any illegal articles or any items as evidence found.

(10) The stewards shall maintain a log of all infractions of the rules and of all rulings of the stewards upon matters coming before them during the race meet.

(11) The state stewards must give prior approval for any person other than the commissioners or commission representative to be allowed in the stewards' stand.

*c. Emergency authority.*

(1) Substitute officials. When in an emergency, any official is unable to discharge the official's duties, the stewards may approve the appointment of a substitute and shall report it immediately to the commission.

(2) Substitute jockeys. The stewards have the authority, in an emergency, to place a substitute jockey on any horse in the event the trainer does not do so. Before using that authority, the stewards shall in good faith attempt to inform the trainer of the emergency and to afford the trainer the opportunity to appoint a substitute jockey. If the trainer cannot be contacted, or if the trainer is contacted but fails to appoint a substitute jockey and inform the stewards of the substitution by 30 minutes prior to post time, then the stewards may appoint under this rule.

(3) Substitute trainer. The stewards have the authority in an emergency to designate a substitute trainer for any horse.

(4) Excuse horse. In case of accident or injury to a horse or any other emergency deemed by the stewards before the start of any race, the stewards may excuse the horse from starting.

(5) Exercise authority. No licensee may exercise a horse on the track between races unless upon the approval of the stewards.

(6) Nonstarter. At the discretion of the stewards, any horse(s) precluded from having a fair start may be declared a nonstarter, and any wagers involving said horse(s) may be ordered refunded.

*d. Investigations and decisions.*

(1) Investigations. The stewards may, upon direction of the commission, conduct inquiries and shall recommend to the commission the issuance of subpoenas to compel the attendance of witnesses and the production of reports, books, papers, and documents for any inquiry. The commission stewards have the power to administer oaths and examine witnesses. The stewards shall submit a written report to the commission of every such inquiry made by them.

(2) Form reversal. The stewards shall take notice of any marked reversal of form by any horse and shall conduct an inquiry of the horse's owner, trainer, or other persons connected with the horse including any person found to have contributed to the deliberate restraint or impediment of a horse in order to cause it not to win or finish as near as possible to first.

(3) Fouls.

1. Extent of disqualification. Upon any claim of foul submitted to them, the stewards shall determine the extent of any disqualification and place any horse found to be disqualified behind others in the race with which it interfered or may place the offending horse last in the race. The stewards at their discretion may determine if there was sufficient interference or intimidation to affect the outcome of the race and take the appropriate actions thereafter. Abuse of discretion shall be the standard of review used in any appeal involving a steward's disqualification decision.

2. Coupled entry. When a horse is disqualified under 10.4(4)*"d"*(3)"1" and that horse was a part of a coupled entry and, in the opinion of the stewards, the act which led to the disqualification served to unduly benefit the other part of the coupled entry, the stewards may disqualify the other part of the entry.

3. Jockey guilty of foul. The stewards may discipline any jockey whose horse has been disqualified as a result of a foul committed during the running of a race.

(4) Protests and complaints. The stewards shall investigate promptly and render a decision in every protest and complaint made to them. They shall keep a record of all protests and complaints and any rulings made by the stewards and shall file reports daily with the commission.

1. Involving fraud. Protests involving fraud may be made by any person at any time. The protest must be made to the stewards.

2. Not involving fraud. Protests, except those involving fraud, may be filed only by the owner of a horse, authorized agent, trainer, or the jockey of the horse in the race over which the protest is made. The protest must be made to the clerk of scales, the stewards, or a person designated by the stewards before the race is declared official. If the placement of the starting gate is in error, no protest may be made, unless entered prior to the start of the race.

3. Protest to clerk of scales. A jockey who intends to enter a protest following the running of any race, and before the race is declared official, shall notify the clerk of scales, or a person designated by the stewards, of this intention immediately upon the arrival of the jockey at the scales.

4. Prize money of protested horse. During the time of determination of a protest, any money or prize won by a horse protested or otherwise affected by the outcome of the race shall be paid to and held by the horsemen's bookkeeper until the protest is decided.

5. Protest in writing. A protest, other than one arising out of the actual running of a race, must be in writing, signed by the complainant, and filed with the stewards not later than one hour before post time of the race out of which the protest arises.

6. Frivolous protests. No person shall make a frivolous protest nor may any person withdraw a protest without the permission of the stewards.

*e. Cancel wagering.* The stewards have the authority to cancel wagering on an individual betting interest or on an entire race and also have the authority to cancel a pari-mutuel pool for a race or races if such action is necessary to protect the integrity of pari-mutuel wagering.

**10.4(5)** *Racing secretary.*

*a. General authority.* The racing secretary is responsible for setting the conditions for each race of the meeting, regulating the nomination of entries, determining the amounts of purses and to whom they are due, and recording of race results. The racing secretary shall permit no person other than licensed racing officials to enter the racing secretary's office or work areas until such time as all entries are closed, drawn, and smoked. Exceptions to this rule must be approved by the stewards.

*b. Conditions.* The racing secretary shall establish the conditions and eligibility for entering the races of the meeting and cause them to be published to owners, trainers, and the commission. Corrections to the conditions must be made before entries are taken.

*c. Posting of entries.* Upon the closing of entries each day, the racing secretary shall post a list of entries in a conspicuous location in the office of the racing secretary and shall furnish that list to local newspaper, radio, and television stations.

*d. Stakes and entrance money records.* The racing secretary shall be caretaker of the permanent records of all stakes, entrance moneys, and arrears paid or due in a race meeting and shall keep permanent records of the results of each race of the meeting.

*e. Record of racing.* The racing secretary shall, no later than the day following each race, attach or endorse on the registration certificate of each horse winning in any race the fact of that winning performance and the distance, date of the race, and the type or conditions of the race.

*f. Daily program.* The racing secretary shall publish the official daily program, ensuring the accuracy therein of the following information:

(1) The sequence of races to be run and post time for the first race;

(2) The purse, conditions and distance for each race, and current track record for such distance;

(3) The name of licensed owners of each horse, indicated as leased, if applicable, and description of racing colors to be carried;

(4) The name of the trainer and the name of the jockey named for each horse together with the weight to be carried;

(5) The post position and saddle cloth number or designation for each horse if there is a variance with the saddle cloth designation;

(6) The identification of each horse by name, color, sex, age, sire and dam;

(7) A notice that all jockeys will carry approximately three pounds more than the published weight to account for safety equipment (vest and helmet) that is not included in required weighing-out procedures; and

(8) Such other information as may be requested by the association or the commission.

*g.* *Handicapping.* The racing secretary, or a handicapper assigned by the racing secretary, shall assign the weight to be carried by each horse in a handicap when weights are not stated in the condition of the race:

(1) Scale of weights for age. The scale of weights for age hereinafter listed shall be carried when conditions of races do not otherwise specify:

| Distance | Age | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Two Years | X | X | X | X | X | X | X | 105 | 108 | 111 | 114 | 114 |
| HALF | Three Years | 117 | 117 | 119 | 119 | 121 | 123 | 125 | 126 | 127 | 128 | 129 | 129 |
| MILE | Four Years | 130 | 130 | 130 | 130 | 130 | 130 | 130 | 130 | 130 | 130 | 130 | 130 |
| | Five Years and Up | 130 | 130 | 130 | 130 | 130 | 130 | 130 | 130 | 130 | 130 | 130 | 130 |
| | Two Years | X | X | X | X | X | X | X | 102 | 105 | 108 | 111 | 111 |
| SIX | Three Years | 114 | 114 | 117 | 117 | 119 | 121 | 123 | 125 | 126 | 127 | 128 | 128 |
| FURLONGS | Four Years | 129 | 129 | 130 | 130 | 130 | 130 | 130 | 130 | 130 | 130 | 130 | 130 |
| | Five Years and Up | 130 | 130 | 130 | 130 | 130 | 130 | 130 | 130 | 130 | 130 | 130 | 130 |
| | Two Years | X | X | X | X | X | X | X | X | 96 | 99 | 102 | 102 |
| ONE | Three Years | 107 | 107 | 111 | 111 | 113 | 115 | 117 | 119 | 121 | 122 | 123 | 123 |
| MILE | Four Years | 127 | 127 | 128 | 128 | 127 | 126 | 126 | 126 | 126 | 126 | 126 | 126 |
| | Five Years and Up | 128 | 128 | 128 | 128 | 127 | 126 | 126 | 126 | 126 | 126 | 126 | 126 |
| | Two Years | X | X | X | X | X | X | X | X | X | X | X | X |
| MILE AND | Three Years | 101 | 101 | 107 | 107 | 111 | 113 | 116 | 118 | 120 | 121 | 122 | 122 |
| A QUARTER | Four Years | 125 | 125 | 127 | 127 | 127 | 126 | 126 | 126 | 126 | 126 | 126 | 126 |
| | Five Years and Up | 127 | 127 | 127 | 127 | 127 | 126 | 126 | 126 | 126 | 126 | 126 | 126 |
| | Two Years | X | X | X | X | X | X | X | X | X | X | X | X |
| MILE AND | Three Years | 98 | 98 | 104 | 104 | 108 | 111 | 114 | 117 | 119 | 121 | 122 | 122 |
| A HALF | Four Years | 124 | 124 | 126 | 126 | 126 | 126 | 126 | 126 | 126 | 126 | 126 | 126 |
| | Five Years and Up | 126 | 126 | 126 | 126 | 126 | 126 | 126 | 126 | 126 | 126 | 126 | 126 |
| | Two Years | X | X | X | X | X | X | X | X | X | X | X | X |
| TWO MILES | Three Years | 96 | 96 | 102 | 102 | 106 | 109 | 112 | 114 | 117 | 119 | 120 | 120 |
| | Four Years | 124 | 124 | 126 | 126 | 126 | 126 | 126 | 125 | 125 | 124 | 124 | 124 |
| | Five Years and Up | 126 | 126 | 126 | 126 | 126 | 126 | 126 | 125 | 125 | 124 | 124 | 124 |

(2) Weights listed.

1. In races of intermediate lengths, the weights for the shorter distance shall be carried.
2. In a race exclusively for two-year-olds, the weight shall be 122 pounds.
3. In a race exclusively for three-year-olds or four-year-olds, the weight shall be 126 pounds.

(3) Minimum weight.

1. Thoroughbreds. In all overnight races for two-year-olds, three-year-olds, or four-year-olds and older, the minimum weight shall be 112 pounds, subject to sex and apprentice allowance. This rule shall not apply to handicaps or to races written for three-year-olds and older.

2. Quarter horse and mixed races. In all overnight races for two-year-olds, the weight shall be 120 pounds; for three-year-olds, the weight shall be 122 pounds; and for four-year-olds and older, the weight shall be 124 pounds.

3. Quarter horse and mixed races. In qualifying for a speed index, standard weight shall be 120 pounds. Should any horse carry less than this amount in a race, one-tenth of a second will be added to the official time for each four pounds or fraction thereof less than 120 pounds.

(4) Sex allowances. In thoroughbred racing, sex allowances are obligatory. Sex allowances shall be applied in all thoroughbred races unless the conditions of the race expressly state to the contrary. If the conditions of the race are silent as to sex allowances, a sex allowance shall be applied. Sex allowances may not be declined. Two-year-old fillies shall be allowed three pounds; mares three years old and older are allowed five pounds before September 1 and three pounds thereafter. Sex allowances are not applicable for quarter horse or mixed races.

*h. Penalties not cumulative.* Penalties and weight allowances are not cumulative unless so declared in the conditions of a race by the racing secretary.

*i. Winnings.*

(1) All inclusive. For the purpose of the setting of conditions by the racing secretary, winnings shall be considered to include all moneys and prizes won up to the time of the start of a race, including those races outside the United States. Foreign winnings shall be determined on the basis of the normal rate of exchange prevailing on the day of the win. The amount of purse money earned is credited in United States currency, and there shall be no appeal for any loss on the exchange rate at the time of transfer from United States currency to that of another country.

(2) Winnings considered from January 1. Winnings during the year shall be reckoned by the racing secretary from the preceding January 1.

(3) Winner of a certain sum. "Winner of a certain sum" means the winner of a single race of that sum, unless otherwise expressed in the condition book by the racing secretary. In determining the net value to the winner of any race, the sums contributed by its owner or nominator shall be deducted from the amount won. In all stakes races, the winnings shall be computed on the value of the gross earnings.

(4) Winner's award. Rescinded IAB 5/16/01, effective 6/20/01.

*j. Cancellation of a race.* The racing secretary has the authority to withdraw, cancel, or change any race which has not been closed. In the event the race is canceled, any and all fees paid in connection with the race shall be refunded.

*k. Coggins test.* The racing secretary shall ensure that all horses have a current negative Coggins test. The racing secretary shall report all expired certificates to the stewards.

*l. Registrations and supporting documents.* The racing secretary shall be responsible for receiving, inspecting, and safeguarding all registrations and supporting documents submitted by the trainer while the horses are located on facility premises. Upon notification from a trainer of an alteration of the sex of a horse, the racing secretary shall note such alteration on the certificate of registration. Disclosure is made for the benefit of the public and all documents pertaining to the ownership or lease of a horse filed with the racing secretary shall be available for public inspection.

**10.4(6)** *Paddock judge.*

*a. General authority.* The paddock judge shall:

(1) Supervise the assembly of horses in the paddock no later than 15 minutes before the scheduled post time for each race;

(2) Maintain a written record of all equipment, inspect all equipment of each horse saddled, and report any change thereof to the stewards;

(3) Prohibit any change of equipment without the approval of the stewards;

(4) Ensure that the saddling of all horses is orderly, open to public view, free from public interference, and that horses are mounted at the same time and leave the paddock for the post in proper sequence;

(5) Supervise paddock schooling of all horses approved for such by the stewards;

(6) Report to the stewards any observed cruelty to a horse; and

(7) Ensure that only properly authorized persons are permitted in the paddock.

*b. Paddock judge's list.*

(1) The paddock judge shall maintain a list of horses which shall not be entered in a race because of poor or inconsistent behavior in the paddock that endangers the health or safety of other participants in racing.

(2) At the end of each day, the paddock judge shall provide a copy of the list to the stewards.

(3) To be removed from the paddock judge's list, a horse must be schooled in the paddock and demonstrate to the satisfaction of the paddock judge and the stewards that the horse is capable of performing safely in the paddock.

**10.4(7)** *Horse identifier.* The horse identifier shall:

*a.* When required, ensure the safekeeping of registration certificates and racing permits for horses stabled or racing on facility premises;

*b.* Inspect documents of ownership, eligibility, registration, or breeding necessary to ensure the proper identification of each horse scheduled to compete at a race meeting;

*c.* Examine every starter in the paddock for sex, color, markings, and lip tattoo for comparison with its registration certificate to verify the horse's identity;

*d.* Supervise the tattooing, microchipping or branding for identification of any horse located on facility premises; and

*e.* Report to the stewards any horse not properly identified or whose registration certificate is not in conformity with these rules.

**10.4(8)** *Starter.*

*a. General authority.* The starter shall:

(1) Have complete jurisdiction over the starting gate, the starting of horses, and the authority to give orders not in conflict with the rules as may be required to ensure all participants an equal opportunity to a fair start;

(2) Appoint and supervise assistant starters who have demonstrated they are adequately trained to safely handle horses in the starting gate. In emergency situations, the starter may appoint qualified individuals to act as substitute assistant starters;

(3) Assign the starting gate stall positions to assistant starters and notify the assistant starters of their respective stall positions more than ten minutes before post time for the race;

(4) Assess the ability of each person applying for a jockey's license in breaking from the starting gate and working a horse in the company of other horses, and make said assessment known to the stewards; and

(5) Load horses into the gate in any order deemed necessary to ensure a safe and fair start.

*b. Assistant starters.* With respect to an official race, the assistant starters shall not:

(1) Handle or take charge of any horse in the starting gate without the expressed permission of the starter;

(2) Impede the start of a race;

(3) Use excessive force, a whip or other device, with the exception of steward-approved tongs, to assist in loading a horse into the starting gate;

(4) Slap, boot, or otherwise dispatch a horse from the starting gate;

(5) Strike or use abusive language to a jockey; or

(6) Accept or solicit any gratuity or payment other than their regular salary, directly or indirectly, for services in starting a race.

*c. Starter's list.* No horse shall be permitted to start in a race unless approval is given by the starter. The starter shall maintain a starter's list of all horses which are ineligible to be entered in any race because of poor or inconsistent behavior or performance in the starting gate. Any horse on the starter's list shall be refused entry until the horse has demonstrated to the starter that it has been satisfactorily schooled in the gate and can be removed from the starter's list. Schooling shall be under the direct supervision of the starter.

**10.4(9)** *Timer/clocker.*

*a. General authority—timer.*

(1) The timer shall accurately record the official time.

(2) At the end of a race, the timer shall post the official running time on the infield totalizator board on instruction by the stewards.

(3) At a facility equipped with an appropriate infield totalizator board, the timer shall post the quarter times (splits) for thoroughbred races in fractions as a race is being run. For quarter horse races, the timer shall post the official times in hundredths of a second.

(4) For backup purposes, the timer shall also use a stopwatch to time all races. In time trials, the timer shall ensure that at least two stopwatches are used by the stewards or their representatives.

(5) The timer shall maintain, and make available for inspection by the stewards or the commission on request, a written record of fractional and finish times of each race.

*b. General authority—clocker.*

(1) The clocker shall be present during training hours at each track on facility premises which is open for training to identify each horse working out and to accurately record the distances and times of each horse's workout.

(2) Each day, the clocker shall prepare a list of workouts that includes the name of each horse which worked along with the distance and time of each horse's workout.

(3) At the conclusion of training hours, the clocker shall deliver a copy of the list of workouts to the stewards and the racing secretary.

**10.4(10)** *Placing judges.*

*a. General authority.* The placing judges shall determine the order of finish in a race as the horses pass the finish line and, with the approval of the stewards, may display the results on the totalizator board.

*b. Photo finish.*

(1) In the event the placing judges or the stewards request a photo of the finish, the photo finish sign shall be posted on the totalizator board.

(2) Following their review of the photo finish film strip, the placing judges shall, with the approval of the stewards, determine the exact order of finish for all horses participating in the race, and shall immediately post the numbers of the first four finishers on the totalizator board.

(3) In the event a photo was requested, the placing judges shall cause a photographic print of said finish to be produced. The finish photograph shall, when needed, be used by the placing judges as an aid in determining the correct order of finish.

(4) Upon determination of the correct order of finish of a race in which the placing judges have utilized a photographic print to determine the first four finishers, the placing judges shall cause prints of said photograph to be displayed publicly in the grandstand and clubhouse areas of the facility.

*c. Dead heats.*

(1) In the event the placing judges determine that two or more horses finished the race simultaneously and cannot be separated as to their order of finish, a dead heat shall, with the approval of the stewards, be declared.

(2) In the event one or more of the first four finishers of a race are involved in a dead heat, the placing judges shall post the dead heat sign on the totalizator board and cause the numbers of the horse or horses involved to blink on the totalizator board.

**10.4(11)** *Jockey room custodian.* The jockey room custodian shall:

*a.* Supervise the conduct of the jockeys and their attendants while they are in the jockey room;

*b.* Keep the jockey room clean and safe for all jockeys;

*c.* Ensure all jockeys are in the correct colors and wearing the correct arm number before leaving the jockey room to prepare for mounting their horses;

*d.* Keep a daily film list as dictated by the stewards and have it displayed in plain view for all jockeys;

*e.* Keep a daily program displayed in plain view for the jockeys;

*f.* Keep unauthorized persons out of the jockey room;

*g.* Report to the stewards any unusual occurrences in the jockey room;

*h.* Assist the clerk of scales as required;

*i.* Supervise the care and storage of racing colors; and

*j.* Assign to each jockey a locker for the use of storing the jockey's clothing, equipment, and personal effects.

**10.4(12)** *Mutuel manager.* The mutuel manager is responsible for the operation of the mutuel department. The mutuel manager shall ensure that any delays in the running of official races caused by totalizator malfunctions are reported to the stewards. The mutuel manager shall submit a written report on any delay when requested by the state steward.

**10.4(13)** *Clerk of scales.* The clerk of scales shall:

*a.* Verify the presence of all jockeys in the jockey room at the appointed time;

*b.* Verify that each jockey has a current jockey's license issued by the commission;

*c.* Verify the correct weight of each jockey at the time of weighing out and weighing in and report any discrepancies to the stewards immediately;

*d.* Oversee the security of the jockey room including the conduct of the jockeys and their attendants;

*e.* Record all required data on the scale sheet and submit that data to the horsemen's bookkeeper at the end of each race day;

*f.* Maintain the record of applicable winning races on all apprentice certificates at the meeting;

*g.* Release apprentice jockey certificates, upon the jockey's departure or upon the conclusion of the race meet; and

*h.* Assume the duties of the jockey room custodian in the absence of such employee.

**10.4(14)** *Outrider.*

*a.* The facility shall appoint a minimum of two outriders on the main track for each race of a performance and during workouts. The facility shall appoint one outrider on the training track during all workouts. The outriders must be neat in appearance, wear approved helmets with the chin straps securely fastened, and wear approved safety vests while on the main track or training track.

*b.* The outriders shall:

(1) Accompany the field of horses from the paddock to the post;

(2) Ensure the post parade is conducted in an orderly manner, with all jockeys and pony riders conducting themselves in a manner in conformity with the best interests of racing as determined by the board of stewards;

(3) Assist jockeys with unruly horses;

(4) Render assistance when requested by a jockey;

(5) Be present during morning workouts to assist exercise riders as required by regulations;

(6) Promptly report to the stewards any unusual conduct which occurs while performing the duties of an outrider;

(7) Ensure individuals using the track(s) are appropriately licensed; and

(8) Promptly report jockey objections to the stewards after the finish of each race.

**10.4(15)** *Horsemen's bookkeeper.*

*a.* General authority. The horsemen's bookkeeper shall maintain the records and accounts and perform the duties described herein and maintain such other records and accounts and perform such other duties as the facility and commission may prescribe.

*b.* Records.

(1) The records shall include the name, mailing address, social security number or federal tax identification number, and the state or country of residence of each horse owner, trainer, or jockey participating at the race meeting who has funds due or on deposit in the horsemen's account.

(2) The records shall include a file of all required statements of partnerships, syndicates, corporations, assignments of interest, lease agreements, and registrations of authorized agents.

(3) All records of the horsemen's bookkeeper shall be kept separate and apart from the records of the facility.

(4) All records of the horsemen's bookkeeper including records of accounts and moneys and funds kept on deposit are subject to inspection by the commission at any time.

*c.* Moneys and funds on account.

(1) All moneys and funds on account with the horsemen's bookkeeper shall be maintained:

1. Separate and apart from moneys and funds of the facility;

2. In a trust account designated as "horsemen's trust account"; and

3. In an account insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

(2) The horsemen's bookkeeper shall be bonded.

*d.* Payment of purses.

(1) The horsemen's bookkeeper shall receive, maintain, and disburse the purses of each race and all stakes, entrance money, jockey fees, purchase money in claiming races, all applicable taxes, and other moneys that properly come into the horsemen's bookkeeper's possession in accordance with the provisions of commission rules.

(2) The horsemen's bookkeeper may accept moneys due, belonging to other organizations or recognized meetings, provided prompt return is made to the organization to which the money is due.

(3) The horsemen's bookkeeper shall disburse the purse of each race and all stakes, entrance money, jockey fees, purchase money in claiming races, and all applicable taxes, upon request, within 48 hours of receipt of notification that all tests with respect to such races have cleared the drug testing laboratory (commission chemist) as reported by the stewards. Minimum jockey mount fees may be disbursed prior to notification that the tests have cleared the testing laboratory.

(4) Absent a prior request, the horsemen's bookkeeper shall disburse moneys to the persons entitled to receive same within 15 days after the last race day of the race meeting, including purses for official races, provided that all tests with respect to such races have cleared the drug testing laboratory as reported by the stewards, and provided further that no protest or appeal has been filed with the stewards or the commission.

(5) In the event a protest or appeal has been filed with the stewards or the commission, the horsemen's bookkeeper shall disburse the purse within 48 hours of receipt of dismissal or a final nonappealable order disposing of such protest or appeal.

*e.* No portion of purse money other than jockey fees shall be deducted by the facility for itself or for another, unless so requested in writing by the person to whom purse moneys are payable or the person's duly authorized representative. The horsemen's bookkeeper shall mail to each owner a duplicate of each record of all deposits, withdrawals, or transfers of funds affecting the owner's racing account at the close of each race meeting.

**10.4(16)** *Patrol judges.*

*a.* *General authority.* A facility may employ patrol judges who shall observe the running of the race and report information concerning the running of the race to the stewards.

*b.* *Duty stations.* Each patrol judge shall have a duty station assigned by the stewards.

**10.4(17)** *Commission veterinarians.*

*a.* The veterinarians shall advise the commission and the stewards on all veterinary matters.

*b.* The commission veterinarians shall have supervision and control of the detention barn for the collection of test samples for the testing of horses for prohibited medication as provided in Iowa Code sections 99D.23(2) and 99D.25(9). The commission may employ persons to assist the commission veterinarians in maintaining the detention barn area and collecting test samples.

*c.* The commission veterinarians shall not buy or sell any horse under their supervision; wager on a race under their supervision; or be licensed to participate in racing in any other capacity.

*d.* The stewards or commission veterinarians may request any horse entered in a race to undergo an examination on the day of the race to determine the general fitness of the horse for racing. During the examination, all bandages shall be removed by the groom upon request and the horse may be exercised outside the stall to permit the examiner to determine the condition of the horse's legs and feet. The examining veterinarian shall report any unsoundness in a horse to the stewards.

*e.* A commission veterinarian shall inspect all of the horses in a race at the starting gate and after the finish of a race shall observe the horses upon their leaving the track.

*f.* The commission veterinarian shall place any horse determined to be sick or too unsafe, unsound, or unfit to race on a veterinarian's list that shall be posted in a conspicuous place available to all owners, trainers, and officials.

*g.* A horse placed on the veterinarian's list, bleeders exempt, may be allowed to enter only after it has been removed from the list by the commission veterinarian. Requests for the removal of any horse from the veterinarian's list will be accepted only after three calendar days from the placing of the horse on the veterinarian's list have elapsed. Removal from the list will be at the discretion of the commission veterinarian, who may require satisfactory workouts or examinations to adequately demonstrate that the problem that caused the horse to be placed on the list has been rectified. Horses that are entered to race and then placed on the veterinarian's list for any reason will not be allowed to enter a race for a minimum of three calendar days beginning the day after the horse was scheduled to race.

Every confirmed bleeder, regardless of age, shall be placed on the bleeder list and be ineligible to race for the following time periods:

(1) First incident – 14 days.

(2) Second incident within 365-day period – 30 days.

(3) Third incident within 365-day period – 180 days.

(4) Fourth incident within 365-day period – barred for racing lifetime.

For the purposes of counting the number of days a horse is ineligible to run, the day the horse bled externally is the first day of the recovery period. The voluntary administration of furosemide without an external bleeding incident shall not subject the horse to the initial period of ineligibility specified in subparagraph (1). A horse may be removed from the bleeder list only upon the direction of the official veterinarian, who shall certify in writing to the stewards the recommendation for removal. A horse which has been placed on a bleeder list in another jurisdiction pursuant to these rules shall be placed on a bleeder list in this jurisdiction.

*h.* The commission veterinarians shall supervise and ensure that the administration of furosemide and phenylbutazone is in compliance with Iowa Code section 99D.25A.

*i.* Rescinded IAB 9/29/04, effective 11/3/04.

*j.* The commission veterinarian or commission representative shall take receipt of veterinary reports as required by Iowa Code section 99D.25(10).

[**ARC 0734C**, IAB 5/15/13, effective 6/19/13; see Delay note at end of chapter; **ARC 1876C**, IAB 2/18/15, effective 3/25/15]

**491—10.5(99D) Trainer, jockey, and jockey agent responsibilities.**

**10.5(1)** *Trainer.*

*a.* *Responsibility.* The trainer is responsible for:

(1) The condition of horses entered in an official workout or race and, in the absence of substantial evidence to the contrary, for the presence of any prohibited drug, medication or other substance, including permitted medication in excess of the maximum allowable level, in such horses, regardless of the acts of third parties. A positive test for a prohibited drug, medication, or substance, including permitted medication in excess of the maximum allowable level, as reported by a commission-approved laboratory, is prima facie evidence of a violation of this rule or Iowa Code chapter 99D.

(2) Preventing the administration of any drug, medication, or other prohibited substance that may cause a violation of these rules.

(3) Any violation of rules regarding a claimed horse's participation in the race in which the trainer's horse is claimed.

(4) The condition and contents of stalls, tack rooms, feed rooms, sleeping rooms, and other areas which have been assigned to the trainer by the facility and maintaining the assigned stable area in a clean, neat, and sanitary condition at all times.

(5) Ensuring that fire prevention rules are strictly observed in the assigned stable area.

(6) Being present to witness the administration of furosemide during the administration time and sign as the witness on the affidavit form. A licensed designee of the trainer may witness the administration of the furosemide and sign as the witness on the affidavit form; however, this designee may not be another practicing veterinarian or veterinary assistant.

(7) The proper identity, custody, care, health, condition, and safety of horses in the trainer's charge.

(8) Disclosure to the racing secretary of the true and entire ownership of each horse in the trainer's care, custody, or control. Any change in ownership shall be reported immediately to, and approved by,

the stewards and recorded by the racing secretary. The disclosure, together with all written agreements and affidavits setting out oral agreements pertaining to the ownership for or rights in and to a horse, shall be attached to the registration certificate for the horse and filed with the racing secretary.

(9) Training all horses owned wholly or in part by the trainer which are participating at the race meeting.

(10) Registering with the racing secretary each horse in the trainer's charge within 24 hours of the horse's arrival on facility premises.

(11) Ensuring that, at the time of arrival at the facility, each horse in the trainer's care is accompanied by a valid health certificate which shall be filed with the racing secretary.

(12) Having each horse in the trainer's care that is racing or stabled on facility premises tested for equine infectious anemia (EIA) in accordance with state law and for filing evidence of such negative test results with the racing secretary. The test must have been conducted within the previous 12 months and must be repeated upon expiration. The certificate must be attached to the foal certificate.

(13) Using the services of those veterinarians licensed by the commission to attend horses that are on facility premises.

(14) Immediately reporting the alteration of the sex of a horse in the trainer's care to the horse identifier and the racing secretary.

(15) Promptly reporting to the racing secretary and the commission veterinarian any horse on which a posterior digital neurectomy (heel nerving) has been performed and ensuring that such fact is designated on its certificate of registration. See Iowa Code subsections 99D.25(1) to 99D.25(3).

(16) Promptly reporting to the stewards and the commission veterinarian the serious illness of any horse in the trainer's charge.

(17) Promptly reporting the death of any horse in the trainer's care on facility premises to the stewards, owner, and the commission veterinarian and complying with Iowa Code subsection 99D.25(5) governing postmortem examination.

(18) Maintaining a knowledge of the medication record and status of all horses in the trainer's care.

(19) Immediately reporting to the stewards and the commission veterinarian if the trainer knows, or has cause to believe, that a horse in the trainer's custody, care, or control has received any prohibited drugs or medication.

(20) Representing an owner in making entries and scratches and in all other matters pertaining to racing.

(21) Eligibility of horses entered and weight or other allowance claimed.

(22) Ensuring the fitness of a horse to perform creditably at the distance entered.

(23) Ensuring that the trainer's horses are properly shod, bandaged, and equipped.

(24) Presenting the trainer's horse in the paddock at least 20 minutes before post time or at a time otherwise appointed before the race in which the horse is entered.

(25) Personally attending to the trainer's horses in the paddock and supervising the saddling thereof, unless excused by the stewards.

(26) Instructing the jockey to give the jockey's best effort during a race and instructing the jockey that each horse shall be ridden to win.

(27) Witnessing the collection of a urine or blood sample from the horse in the trainer's charge or delegating a licensed employee or the owner of the horse to do so.

(28) Notifying horse owners upon the revocation or suspension of their trainer's license. A trainer whose license has been suspended for more than 30 days, whose license has expired or been revoked, or whose license application has been denied must inform the horse owners that, until the license is restored, the trainer can no longer be involved with the training, care, custody or control of their horses, nor receive any compensation from the owners for the training, care, custody or control of their horses. Upon application by the horse owner, the stewards may approve the transfer of such horse(s) to the care of another licensed trainer, and upon such approved transfer, such horse(s) may be entered to race. Upon transfer of such horse(s), the inactive trainer shall not be involved in any arrangements related to the care, custody or control of the horse(s) and shall not benefit financially or in any other way from the training of the horse(s).

(29) Ensuring that all individuals in their employ are properly licensed by the commission.

*b.* *Restrictions on wagering.* A trainer with a horse(s) entered in a race shall be allowed to wager only on that horse(s) or that horse(s) in combination with other horses.

*c.* *Assistant trainers.*

(1) Upon the demonstration of a valid need, a trainer may employ an assistant trainer as approved by the stewards. The assistant trainer shall be licensed prior to acting in such capacity on behalf of the trainer.

(2) Qualifications for obtaining an assistant trainer's license shall be prescribed by the stewards and the commission and may include requirements set forth in 491—Chapter 6.

(3) An assistant trainer may substitute for and shall assume the same duties, responsibilities and restrictions as are imposed on the licensed trainer, in which case the trainer shall be jointly responsible for the assistant trainer's compliance with the rules.

*d.* *Substitute trainers.*

(1) A trainer absent for more than five days from responsibility as a licensed trainer, or on a day in which the trainer has a horse in a race, shall obtain another licensed trainer to substitute.

(2) A substitute trainer shall accept responsibility for the horses in writing and shall be approved by the stewards.

(3) A substitute trainer and the absent trainer shall be jointly responsible as absolute insurers of the condition of their horses entered in an official workout or race.

**10.5(2)** *Jockey.*

*a.* *Responsibility.*

(1) A jockey shall give a best effort during a race, and each horse shall be ridden to win.

(2) A jockey shall not have a valet attendant except one provided and compensated by the facility.

(3) No person other than the licensed contract employer or a licensed jockey agent may make riding engagements for a rider, except that a jockey not represented by a jockey agent may make the jockey's own riding engagements.

(4) A jockey shall have no more than one jockey agent.

(5) No revocation of a jockey agent's authority is effective until the jockey notifies the stewards in writing of the revocation of the jockey agent's authority.

(6) A jockey shall promptly report objections to the outrider(s) following the finish of the race.

*b.* *Jockey betting.* A jockey shall be allowed to wager only on a race in which the jockey is riding. A jockey shall be allowed to wager only if:

(1) The owner or trainer of the horse that the jockey is riding makes the wager for the jockey;

(2) The jockey only wagers on the jockey's own mount to win or finish first in combination with other horses in multiple-type wagers; and

(3) Records of such wagers are kept and available for presentation upon request by the stewards.

*c.* *Jockey's spouse.* A jockey shall not compete in any race against a horse that is trained or owned by the jockey's spouse.

*d.* *Jockey mount fees.* Rescinded IAB 5/6/09, effective 6/10/09.

*e.* *Entitlement.* Any apprentice or contract rider shall be entitled to the regular jockey fees, except when riding a horse owned in part or solely by the contract holder. An interest in the winnings only (such as trainer's percent) shall not constitute ownership.

*f.* *Fee earned.* A jockey's fee shall be considered earned when the jockey is weighed out by the clerk of scales. The fee shall not be considered earned when injury to the horse or rider is not involved and jockeys, of their own free will, take themselves off their mounts. Any conditions or considerations not covered by the above shall be at the discretion of the stewards.

*g.* *Multiple engagements.* If any owner or trainer engages two or more jockeys for the same race, the owner or trainer shall be required to pay each of the jockeys the appropriate fee whether the jockeys ride in the race or not.

*h.* *Dead heats.* Jockeys finishing a race in a dead heat shall divide equally the totals they individually would have received had one jockey won the race alone. The owners of the horses finishing in the dead heat shall pay equal shares of the jockey fees.

*i.* *Apprentices subject to jockey rules.* Unless excepted under these rules, apprentices are subject to all rules governing jockeys and racing.

*j.* *Conduct.*

(1) Clothing and appearance. A jockey shall wear the colors furnished by the owner or facility with the number on the saddlecloth corresponding to the number given in the racing program. A jockey shall maintain a neat and clean appearance while engaged in duties on facility premises and shall wear a clean jockey costume, cap, helmet (approved by commission), a jacket of silk or waterproof fabric, breeches, and top boots.

(2) Competing against contractor. No jockey may ride in any race against a starting horse belonging to the jockey's contract employer unless the jockey's mount and the contract employer's horse are both trained by the same trainer.

(3) Confined to jockey room. Jockeys engaged to ride a race shall report to the jockey room on the day of the race at the time designated by the facility officials. The jockeys shall then report their engagements and any overweight to the clerk of scales. Thereafter, they shall not leave the jockey room, except by permission of the stewards, until all of their riding engagements of the day have been fulfilled. Once jockeys have fulfilled their riding engagements for the day and have left the jockeys' quarters, they shall not be readmitted to the jockeys' quarters until after the entire racing program for that day has been completed, except upon permission of the stewards. Jockeys are not allowed to communicate with anyone but the trainer while in the room during the performance except with approval of the stewards. On these occasions, they shall be accompanied by a security guard.

(4) Whip prohibited. Jockeys may not use a whip on a two-year-old horse before April 1 of each year, nor shall a jockey or other person engage in excessive or indiscriminate whipping of any horse at any time.

(5) Spurs prohibited. Jockeys shall not use spurs.

(6) Possessing drugs or devices. Jockeys shall not have in their care, control, or custody any drugs, prohibited substances, or electrical or mechanical device that could affect a horse's racing performance.

*k.* *Jockey effort.* A jockey shall exert every effort to ride the horse to the finish in the best and fastest run of which the horse is capable. No jockey shall ease up or coast to a finish, without adequate cause, even if the horse has no apparent chance to win prize money.

*l.* *Duty to fulfill engagements.* Jockeys shall fulfill their duly scheduled riding engagements, unless excused by the stewards. Jockeys shall not be forced to ride a horse they believe to be unsound or over a racing strip they believe to be unsafe. If the stewards find a jockey's refusal to fulfill a riding engagement is based on personal belief unwarranted by the facts and circumstances, the jockey may be subject to disciplinary action. Jockeys shall be responsible to their agent for any engagements previously secured by the agent.

*m.* *Riding interference.*

(1) When the way is clear in a race, a horse may be ridden to any part of the course; but if any horse swerves, or is ridden to either side, so as to interfere with, impede, or intimidate any other horse, it is a foul.

(2) The offending horse may be disqualified if, in the opinion of the stewards, the foul altered the finish of the race, regardless of whether the foul was accidental, willful, or the result of careless riding.

(3) If the stewards determine the foul was intentional, or due to careless riding, the jockey shall be held responsible.

(4) In a straightaway race, every horse must maintain position as nearly as possible in the lane in which it started. If a horse is ridden, drifts, or swerves out of its lane in such a manner that it interferes with, impedes, or intimidates another horse, it is a foul and may result in the disqualification of the offending horse.

*n.* *Jostling.* Jockeys shall not jostle another horse or jockey. Jockeys shall not strike another horse or jockey or ride so carelessly as to cause injury or possible injury to another horse in the race.

*o.* *Partial fault/third-party interference.* If a horse or jockey interferes with or jostles another horse, the aggressor may be disqualified, unless the interfered or jostled horse or jockey was partly at fault or the infraction was wholly caused by the fault of some other horse or jockey.

*p.* *Careless riding.* A jockey shall not ride carelessly or willfully permit the mount to interfere with, intimidate, or impede any other horse in the race. A jockey shall not strike at another horse or jockey so as to impede, interfere with, or injure the other horse or jockey. If a jockey rides in a manner contrary to this rule, the horse may be disqualified; or the jockey may be fined, suspended, or otherwise disciplined; or other penalties may apply.

*q.* *Jockey weighed out.*

(1) Jockeys must be weighed for their assigned horse not more than 30 minutes before the time fixed for the race.

(2) A jockey's weight shall include the jockey's clothing, boots, saddle and its attachments. A safety vest shall be mandatory, shall weigh no more than two pounds, and shall be designed to provide shock-absorbing protection to the upper body of at least a rating of five as defined by the British Equestrian Trade Association.

(3) All other equipment shall be excluded from the weight.

*r.* *Overweight limited.* No jockey may weigh more than two pounds or, in the case of inclement weather, four pounds over the weight the horse is assigned to carry unless with consent of the owner or trainer and unless the jockey has declared the amount of overweight to the clerk of scales at least 45 minutes before the time of the race. However, a horse shall not carry more than seven pounds overweight, except in inclement weather when nine pounds shall be allowed. The overweight shall be publicly announced and posted in a conspicuous place both prior to the first race of the day and before the running of the race.

(1) Weigh in. Upon completion of a race, jockeys shall ride promptly to the winner's circle and dismount. Jockeys riding the first four finishers, or at the discretion of the stewards a greater number, shall present themselves to the clerk of scales to be weighed in. If a jockey is prevented from riding the mount to the winner's circle because of accident or illness either to the jockey or the horse, the jockey may walk or be carried to the scales unless excused by the stewards.

(2) Unsaddling. Jockeys, upon completion of a race, must return to the unsaddling area and unsaddle their own horse, unless excused by the stewards.

(3) Removing horse's equipment. No person except the valet attendant for each mount is permitted to assist the jockey in removing the horse's equipment that is included in the jockey's weight, unless the stewards permit otherwise. To weigh in, jockeys shall carry to the scales all pieces of equipment with which they weighed out. Thereafter they may hand the equipment to the valet attendant.

(4) Underweight. When any horse places first, second, or third in a race, or is coupled in any form of multiple exotic wagering, and thereafter the horse's jockey is weighed in short by more than two pounds of the weight of which the jockey was weighed out, the mount may be disqualified and all purse moneys forfeited.

(5) Overweight. If the jockey is overweight, the jockey is subject to fine, suspension, or both.

*s.* *Contracts.* Rescinded IAB 5/16/01, effective 6/20/01.

*t.* *Jockey fines and forfeitures.* Jockeys shall pay any fine or forfeiture from their own funds within 48 hours of the imposition of the fine or at a time deemed proper by the stewards. No other person shall pay jockey fines or forfeitures for the jockey.

*u.* *Competing claims.* Whenever two or more licensees claim the services of one jockey for a race, first call shall have priority and any dispute shall be resolved by the stewards.

*v.* *Jockey suspension.*

(1) Offenses involving fraud. Suspension of a licensee for an offense involving fraud or deception in racing shall begin immediately after the ruling unless otherwise ordered by the stewards or commission.

(2) Offenses not involving fraud. Suspension for an offense not involving fraud or deception in racing shall begin on the third day after the ruling or at the stewards' discretion.

(3) Withdrawal of appeal. Withdrawal by the appellant of a notice of appeal filed with the commission, whenever imposition of the disciplinary action has been stayed or enjoined pending a final decision by the commission, shall be deemed a frivolous appeal and referred to the commission for

further disciplinary action in the event the appellant fails to show good cause to the stewards why the withdrawal should not be deemed frivolous.

(4) Riding suspensions of ten days or less and participating in designated races. The stewards appointed for a race meeting shall immediately, prior to the commencement of that meeting, designate the stakes, futurities, futurity trials, or other races in which a jockey will be permitted to compete, notwithstanding the fact that such jockey is technically under suspension for ten days or less for a riding infraction at the time the designated race is to be run.

1. Official rulings for riding suspensions of ten days or less shall state: "The term of this suspension shall not prohibit participation in designated races."

2. A listing of the designated races shall be posted in the jockey room and any other such location deemed appropriate by the stewards.

3. A suspended jockey must be named at time of entry to participate in any designated race.

4. A day in which a jockey participated in one designated race while on suspension shall count as a suspension day. If a jockey rides in more than one designated race on a race card while on suspension, the day shall not count as a suspension day. Designated trials for a stake shall be considered one race.

**10.5(3)** *Apprentice jockey.* Upon completion of licensing requirements, the stewards may issue an apprentice jockey certificate allowing the holder to claim this allowance only in overnight races.

*a.* An apprentice jockey shall ride with a five-pound weight allowance beginning with the first mount and for one full year from the date of the jockey's fifth winning mount.

*b.* If, after riding one full year from the date of the fifth winning mount, the apprentice jockey has not ridden 40 winners, the applicable weight allowance shall continue for one more year or until the fortieth winner, whichever comes first. In no event shall a weight allowance be claimed for more than two years from the date of the fifth winning mount, unless an extension has been granted.

*c.* The steward may extend the weight allowance of an apprentice jockey when, in the discretion of the steward, the apprentice provides proof of incapacitation for a period of seven or more consecutive days. The allowance may be claimed for a period not to exceed the period such apprentice was unable to ride.

*d.* The apprentice jockey must have the apprentice certificate with the jockey at all times and must keep an updated record of the first 40 winners. Prior to riding, the jockey must submit the certificate to the clerk of scales, who will record the apprentice's winning mounts.

**10.5(4)** *Jockey agent.*

*a.* Responsibilities.

(1) A jockey agent shall not make or assist in making engagements for a jockey other than the jockeys the agent is licensed to represent.

(2) A jockey agent shall file written proof of all agencies and changes of agencies with the stewards.

(3) A jockey agent shall notify the stewards, in writing, prior to withdrawing from representation of a jockey and shall submit to the stewards a list of any unfulfilled engagements made for the jockey.

(4) All persons permitted to make riding engagements shall maintain current and accurate records of all engagements made. Such records shall be subject to examination by the stewards at any time.

(5) No jockey agent shall represent more than two jockeys and one apprentice jockey at the same time except:

1. A jockey agent may represent three jockeys at a "mixed" meeting so long as no more than two of the jockeys ride the same breed.

2. A jockey agent may represent three jockeys at a race meeting exclusive of thoroughbred racing.

(6) A jockey agent must honor a first call given to a trainer or the trainer's assistant trainer.

*b.* Prohibited areas. A jockey agent is prohibited from entering the jockey room, winner's circle, racing strip, paddock, or saddling enclosure during the hours of racing.

*c.* A jockey agent shall not be permitted to withdraw from the representation of any jockey unless written notice to the stewards has been provided.

[**ARC 7757B**, IAB 5/6/09, effective 6/10/09; **ARC 0734C**, IAB 5/15/13, effective 6/19/13; **ARC 1456C**, IAB 5/14/14, effective 6/18/14; **ARC 1876C**, IAB 2/18/15, effective 3/25/15]

**491—10.6(99D) Conduct of races.**

**10.6(1)** Horses ineligible. Any horse ineligible to be entered for a race, or ineligible to start in any race, which competes in that race may be disqualified and the stewards may discipline the persons responsible for the horse competing in that race.

*a.* A horse is ineligible to enter a race when:

(1) The nominator has failed to identify the horse which is being entered for the first time, by name, color, sex, age, and the names of sire and dam as registered.

(2) A horse has been knowingly entered or raced in any jurisdiction under a different name, with an altered registration certificate, or altered lip tattoo by a person having lawful custody or control of the horse for the purpose of deceiving any facility or regulatory agency.

(3) A horse has been allowed to enter or start by a person having lawful custody or control of the horse who participated in or assisted in the entry or racing of some other horse under the name of the horse in question.

(4) A horse is wholly or partially owned by a disqualified person or a horse is under the direct or indirect management of a disqualified person.

(5) A horse is wholly or partially owned by the spouse of a disqualified person or a horse is under the direct or indirect management of the spouse of a disqualified person. In such cases, a presumption which may be rebutted is that the disqualified person and spouse constitute a single financial entity with respect to the horse.

(6) A horse is owned in whole or in part by an undisclosed person or interest.

(7) A horse has been nerved by surgical neurectomy.

(8) A horse has been trachea-tubed to artificially assist breathing.

(9) A horse has impaired eyesight in both eyes.

(10) A horse appears on the starter's list, stewards' list, paddock list, or veterinarian's list, notwithstanding a horse appearing on the veterinarian's list as a "bleeder."

(11) A horse is barred from racing in any racing jurisdiction.

*b.* A horse is ineligible to start a race when:

(1) The horse is not stabled on the premises of the facility by the time designated by the stewards.

(2) The horse's breed registration certificate is not on file with the racing secretary, or horse identifier, except in the case of a quarter horse where the racing secretary has submitted the certificate to the breed registry for correction. The stewards may, in their discretion, waive the requirement in nonclaiming races provided the horse is otherwise properly identified.

(3) The horse is not fully identified by an official tattoo on the inside of the upper lip.

(4) A horse is brought to the paddock and is not in the care of and saddled by a currently licensed trainer or assistant trainer.

(5) No current negative Coggins test or current negative equine infectious anemia test certificate is attached to the horse's registration certificate.

(6) The stakes or entrance money for the horse has not been paid.

(7) The horse appears on the starter's list, stewards' list, paddock list, or veterinarian's list.

(8) The horse is a first-time starter not approved by the starter and does not have a minimum of two published workouts.

(9) Within the past calendar year, the horse has started in a race that has not been reported in a nationally published monthly chartbook, unless, at least 48 hours prior to entry, the owner of the horse provides to the racing secretary performance records which show the place and date of the race, distance, weight carried, amount carried, and the horse's finishing position and time.

(10) In a stakes race, a horse has been transferred with its engagements, unless prior to the start, the fact of transfer of the horse and its engagements has been filed with the racing secretary.

(11) A horse is subject to a lien which has not been approved by the stewards and filed with the horsemen's bookkeeper.

(12) A horse is subject to a lease not filed with the stewards.

(13) A horse is not in sound racing condition.

(14) A horse has been blocked with alcohol or injected with any other foreign substance or drug to desensitize the nerves of the leg.

(15) A horse appears on the veterinarian's list as a "bleeder."

*c.* A horse is ineligible to start in a race when:

(1) A thoroughbred has shoes (racing plates) which have toe grabs with a height greater than two millimeters (0.07874 inches), bends, jars, caulks, stickers or any other traction device on the front hooves while racing or training on all racing surfaces.

(2) A quarter horse has front shoes which have toe grabs with a height greater than four millimeters (0.15748 inches), bends, jars, caulks, stickers or any other traction device worn on the front shoes.

**10.6(2)** Entries.

*a.* The facility shall provide forms for making entries and declarations with the racing secretary. Entries and declarations shall be in writing, or by telephone or fax subsequently confirmed in writing by the owner, trainer, or licensed designee. When any entrant or nominator claims failure or error in the receipt by a facility of any entry or declaration, the entrant or nominator may be required to submit evidence within a reasonable time of the filing of the entry or the declaration. Individuals who hold a jockey agent license, regardless of other licenses held, shall not be permitted to make entries after a time set by the stewards.

*b.* Upon the closing of entries the racing secretary shall promptly compile a list of entries and cause it to be conspicuously posted.

*c.* Coupling. There will be no coupled entries in any race. In races that overfill, trainers must declare preference of runners with identical ownership at time of entry. Same-owner, second-choice horses will be least preferred.

*d.* Split or divided races.

(1) In the event a race is canceled or declared off, the facility may split any overnight race for which post positions have not been drawn.

(2) Where an overnight race is split, forming two or more separate races, the racing secretary shall give notice of not less than 15 minutes before such races are closed to grant time for making additional entries to such split race.

*e.* Entry weight. Owners, trainers, or any other duly authorized person who enters a horse for a race shall ensure that the entry is correct and accurate as to the weight allowances available and claimed for the horse under the conditions set for the race. After a horse is entered and has been assigned a weight to carry in the race, the assignment of weight shall not be changed except in the case of error and with the approval of the stewards. Weight allowances may be waived with the approval of the stewards.

*f.* Consecutive days. No horse shall be run on two consecutive calendar days.

*g.* Foreign entries. For the purposes of determining eligibility, weight assignments, or allowances for horses imported from a foreign nation, the racing secretary shall take into account the "Pattern Race Book" published jointly by the Irish Turf Club, The Jockey Club of Great Britain, and the Société d'Encouragement.

*h.* Weight conversions. For the purpose of determining eligibility, weight assignments, or allowances for horses imported from a foreign nation, the racing secretary shall convert metric distances to English measures by reference to the following scale:

| | |
|---|---|
| 1 sixteenth | = 100 meters |
| 1 furlong | = 200 meters |
| 1 mile | = 1600 meters |

*i.* Name. The "name" of a horse means the name reflected on the certificate of registration, racing permit, or temporary racing permit issued by the breed registry. Imported horses shall have a suffix, enclosed by brackets, added to their registered names showing the country of foaling. This suffix is derived from the international code of suffixes and constitutes part of the horse's registered name. The registered names and suffixes, where applicable, shall be printed in the official program.

*j.* Bona fide entry. No person shall enter or attempt to enter a horse for a race unless that entry is a bona fide entry, made with the intention that the horse is to compete in the race for which the horse was entered.

*k.* Registration certificate to reflect correct ownership. Every breed registry foal certificate filed with the racing secretary to establish the eligibility of a horse to be entered for any race shall accurately reflect the correct and true ownership of the horse. The name of the owner that is printed on the official program for the horse shall conform to the ownership as declared on the certificate of registration or eligibility certificate unless a stable name has been registered with the commission for the owner or ownership.

*l.* *Naming/engaging of riders.* Riders must be named at the time of entry. Before naming any rider, the trainer, owner, or other person authorized must first engage the services of the rider and state on the entry or to the person taking the entry whether it is a first or second call, excluding trial races. Riders properly engaged must fulfill their engagements as required in 10.5(2)*"l."*

*m.* *More than one race.* No horse may be entered in more than one race, with the exception of stakes races, to be run on the same day on which pari-mutuel wagering is conducted.

**10.6(3)** Sweepstakes entries.

*a.* *Entry and withdrawal.* The entry of a horse in a sweepstakes is a subscription to the sweepstakes. Before the time of closing, any entry or subscription may be altered or withdrawn.

*b.* *Entrance money.* Entrance money shall be paid by the nominator to a race. In the event of the death of the horse or a mistake made in the entry of an otherwise eligible horse, the nominator subscriber shall continue to be obligated for any stakes, and the entrance money shall not be returned.

*c.* *Quarter horse scratches and qualifiers unable to participate in finals.* If a horse should be scratched from the time trial finals, the horse's owner will not be eligible for a refund of the fees paid. If a horse that qualified for the final should be unable to enter due to racing soundness, or scratched for any reason other than a positive drug test report or a rule violation, the horse shall be deemed to have earned and the owner will receive last place money. If more than one horse should be unable to enter due to racing soundness, or scratched for any reason other than a positive drug test report or a rule violation, then those purse moneys shall be added together and divided equally among the horse owners.

**10.6(4)** Closing of entries.

*a.* *Overnight entries.* Entries for overnight racing shall be closed at 10 a.m. by the racing secretary, unless a later closing is established by the racing secretary or unless approved by the stewards.

*b.* *Sweepstakes entries.* If an hour for closing is designated, entries and declarations for sweepstakes cannot be received thereafter. However, if a time for closing is not designated, entries and declarations may be mailed or faxed until midnight of the day of closing, if they are received in time to comply with all other conditions of the race. In the absence of notice to the contrary, entries and declarations for sweepstakes that close during or on the day preceding a race meeting shall close at the office of the racing secretary in accordance with any requirements the secretary shall make. Closing for sweepstakes not during race meetings shall be at the office of the facility.

*c.* *Exception.* Nominations for stakes races shall not close nor shall any eligibility payment be due on a day in which the United States Postal Service is not operating.

**10.6(5)** Prohibited entries.

*a.* *Entry by disqualified person.* An entry made by a disqualified person or the entry of a disqualified horse shall be void. Any money paid for the entry shall be returned, if the disqualification is disclosed at least 45 minutes before post time for the race. Otherwise, the entry money shall be paid to the winner.

*b.* *Limited partner entry prohibited.* No person other than a managing partner of a limited partnership or a person authorized by the managing partner may enter a horse owned by that partnership.

*c.* *Altering entries prohibited.* No alteration shall be made in any entry after the closing of entries, but the stewards may permit the correction of an error in an entry.

*d.* *Limitation on overnight entries.* If the number of entries to any purse or overnight race is in excess of the number of horses that may be accommodated due to the size of the track, the starters for the race and their post positions shall be determined by lot conducted in public by the racing secretary.

*e. Stake race entry limit.* In a stake race, the number of horses which may compete shall be limited only by the number of horses nominated and entered. In any case, the facility's lawful race conditions shall govern.

*f. Stewards' denial of entry.* The stewards may, after notice to the entrant, subscriber, or nominator, deny entry of any horse to a race if the stewards determine the entry to be in violation of these rules or the laws of this state or to be contrary to the interests of the commission in the regulation of pari-mutuel wagering or to public confidence in racing.

**10.6(6)** Preferences and eligibles.

*a. Also eligible.* A list of not more than eight names may be drawn from entries filed in excess of positions available in the race. These names shall be listed as "also eligible" to be used as entries if originally entered horses are withdrawn. Any owner, trainer, or authorized agent who has entered a horse listed as an "also eligible" and who does not wish to start shall file a scratch card with the secretary not later than the scratch time designated for that race. "Also eligibles" shall have preference to scratch.

*b. Preference system.* A system using dates or stars shall be used to determine preference for horses being entered in races. The system being used will be at the option of the racing secretary and approved by the stewards. A preference list will be kept current by the racing secretary and made available to horsemen upon request.

*c. Disputed decision.* When the decision of a race is in dispute, all horses involved in the dispute, with respect to the winner's credit or earnings, shall be liable to all weights or conditions attached to the winning of that race until a winner has been finally adjudged.

**10.6(7)** Post positions. Post positions shall be determined by the racing secretary publicly and by lot. Post positions shall be drawn from "also eligible" entries at scratch time. In all races, horses drawn into the race from the "also eligible" list shall take the outside post positions, except in straightaway quarter horse racing. In straightaway quarter horse racing, the post position of the scratched horse shall be assigned to the horse "drawing in." In the event there is more than one scratch, the post positions shall be assigned by lot.

**10.6(8)** Scratch; declaring out.

*a. Notification to the secretary.* No horse shall be considered scratched, declared out, or withdrawn from a race until the owner, agent, or other authorized person has given notice in writing to the racing secretary before the time set by the facility as scratch time. All scratches must be approved by the stewards.

*b. Declaration irrevocable.* Scratching or the declaration of a horse out of an engagement for a race is irrevocable.

*c. Limitation on scratches.* No horse shall be permitted to be scratched from a race if the horses remaining in the race number fewer than seven betting interests, unless the stewards permit a lesser number. When the number of requests to scratch would, if granted, leave a field of fewer than seven, the stewards shall determine by lot which entrants may be scratched and permitted to withdraw from the race.

*d. Scratch time.* Unless otherwise set by the stewards, scratch time shall be:

(1) Stakes races. Scratch time shall be at least 45 minutes before post time.

(2) Other races. Scratch time shall be set by the stewards prior to the start of the meet.

**10.6(9)** Workouts.

*a. When required.* No horse shall be allowed to start unless the horse has raced in an official race or has an approved official timed workout satisfactory to the stewards. A horse that has not started for a period of 60 days or more shall be ineligible to race until it has completed a published workout satisfactory to the stewards prior to the day of the race in which the horse is entered. The workout must have occurred within the previous 30 days for a thoroughbred or within the previous 60 days for a quarter horse. First-time starters must have at least two published workouts and be approved from the gate by the starter.

*b. Identification.* The timer or the stewards may require licensees to identify a horse in their care being worked. The owner, trainer, or jockey may be required to identify the distance the horse is to be worked and the point on the track where the workout will start.

*c. Information dissemination.* If the stewards approve the timed workout so as to permit the horse to run in a race, they shall make it mandatory that this information be furnished to the public in advance of the race including, but not limited to, the following means:

(1) Announcement over the facility's public address system;

(2) Transmission on the facility's message board;

(3) Posting in designated conspicuous places in the racing enclosure; and

(4) Exhibit on track TV monitors at certain intervals if the track has closed circuit TV. If the workout is published prior to the race in either the Daily Racing Form or the track program, then it shall not be necessary to make the announcements set forth above.

*d. Restrictions.* No horse shall be taken onto the track for training or a workout except during hours designated by the facility.

**10.6(10)** Equipment.

*a. Whip and bridle limitations.* Unless permitted by the stewards, no whip or substitute for a whip shall exceed one pound or 30 inches and no bridle shall exceed two pounds.

*b. Equipment change.* No licensee may change the equipment used on a horse from that used in the horse's last race, unless with permission of the stewards. No licensee may add blinkers to a horse's equipment or discontinue their use without the prior approval of the starter and the stewards. In the paddock prior to a race, a horse's tongue may be tied down with clean bandages, clean gauze, or with a tongue strap.

**10.6(11)** Racing numbers.

*a. Number display.* Each horse in a race shall carry a conspicuous saddle cloth number corresponding to the official number given that horse on the official program.

*b. Coupled entries.* In the case of a coupled or other entry that includes more than one horse, each horse in the entry shall carry the same number, with a different distinguishing letter following the number. As an example, two horses in the same entry shall be entered as 1 and 1-A.

*c. Field horses.* In a combined field of horses, each horse in the field shall carry a separate number.

**10.6(12)** Valuation of purse money. Rescinded IAB 5/16/01, effective 6/20/01.

**10.6(13)** Dead heats.

*a.* When two horses run a dead heat for first place, all purses or prizes to which first and second horses would have been entitled shall be divided equally between them; and this applies in dividing all purses or prizes whatever the number of horses running a dead heat and whatever places for which the dead heat is run.

*b.* In the event of a dead-heat finish for second place and thereafter, when an objection to the winner of the race is sustained, the horses in the dead heat shall be considered to have run a dead heat for first place.

*c.* If a prize includes a cup, plate, or other indivisible prize, owners shall draw lots for the prize in the presence of at least two stewards.

**10.6(14)** The facility shall not make distribution of any purses until given clearance of chemical tests by the state steward.

**10.6(15)** Purse money presumption. The fact that purse money has been distributed prior to the issuance of a laboratory report shall not be deemed a finding that no chemical substance has been administered, in violation of these rules, to the horse earning the purse money.

**10.6(16)** Equine infectious anemia (EIA) test.

*a. Certificate required.* No horse shall be allowed to start or be stabled on the premises of the facility unless a valid negative Coggins test or other laboratory-approved negative EIA test certificate is on file with the racing secretary.

*b. Trainer responsibility.* In the event of claims, sales, or transfers, it shall be the responsibility of the new trainer to ascertain the validity of the certificate for the horse within 24 hours. If the certificate is either unavailable or invalid, the previous trainer shall be responsible for any reasonable cost associated with obtaining a negative EIA laboratory certificate.

*c. Positive test reports.* Whenever any owner or trainer is furnished a positive Coggins test or positive EIA test result, the horse shall be removed by the owner or trainer from facility premises or approved farms within 24 hours of actual notice to the owner or trainer of the infection.

**10.6(17)** Race procedures.

*a. Full weight.* Each horse shall carry the full weight assigned for that race from the paddock to the starting point, and shall parade past the stewards' stand, unless excused by the stewards.

*b. Touching and dismounting prohibited.* After the horses enter the track, jockeys may not dismount or entrust their horse to the care of an attendant unless due to an accident occurring to the jockey, the horse, or the equipment, and then only with the prior consent of the starter. During any delay during which a jockey is permitted to dismount, all other jockeys may dismount and their horses may be attended by others. After the horses enter the track, only the hands of the jockey, the starter, the assistant starter, the commission veterinarian, an outrider on a lead pony, or persons approved by the stewards may touch the horse before the start of the race. If a horse throws its jockey on the way from the paddock to the post, the horse must be returned to the point where the jockey was thrown, where the horse shall be remounted and then proceed over the route of the parade to the post. The horse must carry its assigned weight from paddock to post and from post to finish.

*c. Jockey injury.* If a jockey is seriously injured on the way to the post, the horse shall be returned to the paddock, a replacement jockey obtained, and both the injured jockey and the replacement jockey will be paid by the owner.

*d. Twelve-minute parade limit.* After entering the track, all horses shall proceed to the starting post in not more than 12 minutes unless approved by the stewards. After passing the stewards' stand in parade, the horses may break formation and proceed to the post in any manner. Once at the post, the horses shall be started without unnecessary delay. All horses must participate in the parade carrying their weight and equipment from the paddock to the starting post, and any horse failing to do so may be disqualified by the stewards. No lead pony leading a horse in the parade shall obstruct the public's view of the horse being led except with permission of the stewards.

*e. Striking a horse prohibited.* In assisting the start of a race, no person other than the jockey, starter, assistant starter, or veterinarian shall strike a horse or use any other means to assist the start.

*f. Loading of horses.* Horses will be loaded into the starting gate in numerical order or in any other fair and consistent manner determined by the starter and approved by the stewards.

*g. Delays prohibited.* No person shall obstruct or delay the movement of a horse to the starting post.

**10.6(18)** Claiming races.

*a. Eligibility.*

(1) Registered to race or open claim. No person may file a claim for any horse unless the person:

1. Is a licensed owner at the meeting who either has foal paper(s) registered with the racing secretary's office or has started a horse at the meeting; or

2. Is a licensed authorized agent, authorized to claim for an owner eligible to claim; or

3. Has a valid open claim certificate. Any person not licensed as an owner, or a licensed authorized agent for the account of the same, or a licensed owner not having foal paper(s) registered with the racing secretary's office or who has not started a horse at the meeting may request an open claim certificate from the commission. The person must submit a completed application for a prospective owner's license to the commission. The applicant must have the name of the trainer licensed by the commission who will be responsible for the claimed horse. A nonrefundable fee must accompany the application along with any financial information requested by the commission. The names of the prospective owners shall be prominently displayed in the offices of the commission and the racing secretary. The application will be processed by the commission; and when the open claim certificate is exercised, an owner's license will be issued.

(2) One stable claim. No stable that consists of horses owned by more than one person and which has a single trainer may submit more than one claim in any race. An authorized agent may submit only one claim in any race regardless of the number of owners represented.

*b. Procedure for claiming.* To make a claim for a horse, an eligible person shall:

(1) Deposit to the person's account with the horsemen's bookkeeper the full claiming price and applicable taxes as established by the racing secretary's conditions.

(2) File in a locked claim box maintained for that purpose by the stewards the claim filled out completely in writing and with sufficient accuracy to identify the claim on forms provided by the facility at least ten minutes before the time of the race.

*c. Claim box.*

(1) The claim box shall be approved by the commission and kept locked until ten minutes prior to the start of the race, when it shall be presented to the stewards or their representatives for opening and publication of the claims.

(2) The claim box shall also include a time clock which automatically stamps the time on the claim envelope prior to its being dropped in the box.

(3) No official of a facility shall give any information as to the filing of claims therein until after the race has been run.

*d. Claim irrevocable.* After a claim has been filed in the claim box, it shall not be withdrawn.

*e. Multiple claims on single horses.* If more than one claim is filed on a horse, the successful claim shall be determined by lot conducted by the stewards or their representatives.

*f. Successful claims; later races.*

(1) Sale or transfer. No successful claimant may sell or transfer a horse, except in a claiming race, for a period of 30 days from the date of claim.

(2) Eligibility price. A horse that is declared the official winner in the race in which it is claimed may not start in a race in which the claiming price is less than the amount for which it was claimed. After the first start back or 30 days, whichever occurs first, a horse may start for any claiming price. A horse which is not the official winner in the race in which it is claimed may start for any claiming price. This provision shall not apply to starter handicaps in which the weight to be carried is assigned by the handicapper. No right, title, or interest for any claimed horse shall be sold or transferred except in a claiming race for a period of 30 days following the date of claiming. The day claimed shall not count, but the following calendar day shall be the first day.

(3) Racing elsewhere. A horse that was claimed under these rules may not participate at a race meeting other than that at which it was claimed until the end of the meeting, except with written permission of the stewards. This limitation shall not apply to stakes races.

(4) Same management. A claimed horse shall not remain in the same stable or under the control or management of its former owner.

(5) When a horse is claimed out of a claiming race, the horse's engagements are included.

*g. Transfer after claim.*

(1) Forms. Upon a successful claim, the stewards shall issue in triplicate, upon forms approved by the commission, an authorization of transfer of the horse from the original owner to the claimant. Copies of the transfer authorization shall be forwarded to and maintained by the commission, the stewards, and the racing secretary. No claimed horse shall be delivered by the original owner to the successful claimant until authorized by the stewards. Every horse claimed shall race for the account of the original owner, but title to the horse shall be transferred to the claimant from the time the horse becomes a starter. The successful claimant shall become the owner of the horse at the time of starting, regardless of whether it is alive or dead, sound or unsound, or injured during the race or after it. The original trainer of the claimed horse shall be responsible for the postrace test results.

(2) Other jurisdiction rules. The commission will recognize and be governed by the rules of any other jurisdiction regulating title and claiming races when ownership of a horse is transferred or affected by a claiming race conducted in that other jurisdiction.

(3) Determination of sex and age. The claimant shall be responsible for determining the age and sex of the horse claimed notwithstanding any designation of sex and age appearing in the program or in any racing publication. In the event of a spayed mare, the (s) for spayed should appear next to the mare's name on the program. If it does not and the claimant finds that the mare is in fact spayed, claimant may then return the mare for full refund of the claiming price.

(4) Affidavit by claimant. The stewards may, if they determine it necessary, require any claimant to execute a sworn statement that the claimant is claiming the horse for the claimant's own account or as an authorized agent for a principal and not for any other person.

(5) Delivery required. No person shall refuse to deliver a properly claimed horse to the successful claimant. The claimed horse shall be disqualified from entering any race until delivery is made to the claimant.

(6) Obstructing rules of claiming. No person or licensee shall obstruct or interfere with another person or licensee in claiming any horse or enter into any agreement with another to subvert or defeat the object and procedures of a claiming race, or attempt to prevent any horse entered from being claimed.

*h.* *Elimination of stable.* An owner whose stable has been eliminated by claiming may claim for the remainder of the meeting at which eliminated or for 30 racing days, whichever is longer. With the permission of the stewards, stables eliminated by fire or other casualty may claim under this rule.

*i.* *Deceptive claim.* The stewards may cancel and disallow any claim within 24 hours after a race if they determine that a claim was made upon the basis of a lease, sale, or entry of a horse made for the purpose of fraudulently obtaining the privilege of making a claim. In the event of a disallowance, the stewards may further order the return of a horse to its original owner and the return of all claim moneys.

*j.* *Protest of claim.* A protest to any claim must be filed with the stewards before noon of the day following the date of the race in which the horse was claimed. Nonracing days are excluded from this rule.

*k.* *Waived claiming rule.* At the time of entry into claiming races, the owner, trainer, or any authorized agent may opt to declare a horse ineligible to be claimed provided:

(1) The horse has not been an official starter at any racetrack for a minimum of 120 days since the horse's last race as an official starter (at time of race);

(2) The horse's last race as an official starter was one in which the horse was eligible to be claimed;

(3) The horse is entered for a claiming price equal to or greater than the claiming price at which the horse last started as an official starter;

(4) Failure of declaration of ineligibility at time of entry may not be remedied; and

(5) Ineligibility to be claimed shall apply only to the horse's first start as an official starter following each such 120-day or longer layoff.

**10.6(19)** Quarter horse time trial races.

*a.* Except in cases where the starting gate physically restricts the number of horses starting, each time trial shall consist of no more than ten horses.

*b.* The time trials shall be raced under the same conditions as the finals. If the time trials are conducted on the same day, the horses with the ten fastest times shall qualify to participate in the finals. If the time trials are conducted on two days, the horses with the five fastest times on the first day and the horses with the five fastest times on the second day shall qualify to participate in the finals. When time trials are conducted on two days, the racing office should make every attempt to split owners with more than one entry into separate days so that the owner's horses have a chance at all ten qualifying positions.

*c.* If the facility's starting gate has fewer than ten stalls, then the maximum number of qualifiers will correspond to the maximum number of starting gate post positions.

*d.* If only 11 or 12 horses are entered to run in time trials from a gate with 12 or more stalls, the facility may choose to run finals only. If 11 or 12 horses participate in the finals, only the first 10 finishers will receive purse money.

*e.* In the time trials, horses shall qualify on the basis of time and order of finish. The times of the horses in the time trial will be determined to the limit of the timer. The only exception is when two or more horses have the same time in the same trial heat. Then the order of finish shall also determine the preference in the horses' qualifying for the finals. Should two or more horses in different time trials have the same qualifying time to the limit of the timer for the final qualifying position(s), then a draw by public lot shall be conducted as directed by the stewards. Under no circumstances should stewards or placing judges attempt to determine horses' qualifying times in separate trials beyond the limit of the timer by comparing or enlarging a photo finish picture.

*f.* Except in the case of disqualification, under no circumstances shall a horse qualify ahead of a horse that finished ahead of that horse in the official order of finish in a time trial.

*g.* Should a horse be disqualified for interference during the running of a time trial, it shall receive the time of the horse it is immediately placed behind plus one hundredth of a second, or the maximum accuracy of the electronic timing device. No adjustments will be made in the times recorded in the time trials to account for headwind, tailwind, and off track. In the case where a horse is disqualified for interference with another horse causing loss of rider or the horse not to finish the race, the disqualified horse may be given no time plus one hundredth of a second, or the maximum accuracy of the electronic timing device.

*h.* Should a malfunction occur with an electronic timer on any time trial, finalists from that time trial will then be determined by official hand times operated by three official and disinterested persons. The average of the three hand times will be utilized for the winning time, unless one of the hand times is clearly incorrect. In such cases, the average of the two accurate hand times will be utilized for the winning time. The other horses in that race will be given times according to the order and margins of finish with the aid of the photo finish strip, if available.

*i.* When there is a malfunction of the timer during the time trials, but the timer operates correctly in other time trials, under no circumstances should the accurate electronic times be discarded and the average of the hand times used for all time trials. (The only exemption may be if the conditions of the stakes race so state, or state that, in the case of a malfunction of the timer in trials, finalists will be selected by order of finish in the trials.)

*j.* In the case where the accuracy of the electronic timer or the average of the hand times is questioned, the video of a time trial may be used to estimate the winning time by counting the number of video frames in the race from the moment the starting gate stall doors are fully open parallel to the racing track. This method is accurate to approximately .03 seconds. Should the case arise where the timer malfunctions and there are no hand times, the stewards have the option to select qualifiers based on the video time.

*k.* Should there be a malfunction of the starting gate and one or more stall doors not open or open after the exact moment when the starter dispatches the field, the stewards may declare the horses in stalls with malfunctioning doors to be nonstarters. The stewards should have the option, however, to allow any horse whose stall door opened late but still ran a time fast enough to qualify to be declared a starter for qualifying purposes. In the case where a horse breaks through the stall door or the stall door opens prior to the exact moment the starter dispatches the field, the horse must be declared a nonstarter and all entry fees refunded. In the case where one or more, but not all, stall doors open at the exact moment the starter dispatches the field, these horses should be considered starters for qualifying purposes, and placed according to their electronic times. If the electronic timer malfunctions in this instance, the average of the hand times, or, if not available, the video time, should be utilized for the horses that were declared starters.

*l.* There will be an also eligible list only in the case of a disqualification for a positive drug test report, ineligibility of the horse according to the conditions of the race, or a disqualification by the stewards for a rule violation. Should a horse be disqualified for a positive drug test report, ineligibility of the horse according to the conditions of the race, or a disqualification by the stewards for a rule violation, the next fastest qualifier shall assume the disqualified horse's position in the finals.

*m.* If a horse should be scratched from the time trials, the horse's owner will not be eligible for a refund of the fees paid, and that horse will not be allowed to enter the finals under any circumstances. If a horse that qualified for the finals is unable to enter due to racing soundness or is scratched for any reason other than a positive drug test report or a rule violation, the horse shall be deemed to have earned, and the owner will receive, last place purse money. If more than one horse if scratched from the finals for any reason other than a positive drug test report or a rule violation, then the purse moneys shall be added together and divided equally among the owners.

[**ARC 7757B**, IAB 5/6/09, effective 6/10/09; **ARC 9987B**, IAB 2/8/12, effective 3/14/12; **ARC 1876C**, IAB 2/18/15, effective 3/25/15]

**491—10.7(99D) Medication and administration, sample collection, chemists, and practicing veterinarian.**

**10.7(1)** *Medication and administration.*

*a.* No horse, while participating in a race, shall carry in its body any medication, drug, foreign substance, or metabolic derivative thereof, which is a narcotic or which could serve as a local anesthetic or tranquilizer or which could stimulate or depress the circulatory, respiratory, or central nervous system of a horse, thereby affecting its speed.

*b.* Also prohibited are any drugs or foreign substances that might mask or screen the presence of the prohibited drugs, or prevent or delay testing procedures.

*c.* Proof of detection by the commission chemist of the presence of a medication, drug, foreign substance, or metabolic derivative thereof, prohibited by paragraph *"a"* or *"b,"* in a saliva, urine, or blood sample duly taken under the supervision of the commission veterinarian from a horse immediately prior to or promptly after running in a race shall be prima facie evidence that the horse was administered, with the intent that it would carry or that it did carry in its body while running in a race, prohibited medication, drug, or foreign substance in violation of this rule.

*d.* Administration or possession of drugs.

(1) No person shall administer, cause to be administered, or participate or attempt to participate in any way in the administration of any medication, drug, foreign substance, or treatment by any route to a horse registered for racing on the day of the race prior to the race in which the horse is entered.

(2) No person except a veterinarian shall have in the person's possession any prescription drug. However, a person may possess a noninjectable prescription drug for animal use if:

1. The person actually possesses, within the racetrack enclosure, documentary evidence that a prescription has been issued to said person for such a prescription drug.

2. The prescription contains a specific dosage for the particular horse or horses to be treated by the prescription drug.

3. The horse or horses named in the prescription are then in said person's care within the racetrack enclosure.

(3) No veterinarian or any other person shall have in their possession or administer to any horse within any racetrack enclosure any chemical or biological substance which:

1. Has not been approved for use on equines by the Food and Drug Administration pursuant to the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Section 301 et seq., and implementing regulations, without the prior written approval from a commission veterinarian, after consulting with the board of stewards.

2. Is on any of the schedules of controlled substances as prepared by the Attorney General of the United States pursuant to 21 U.S.C. Sections 811 and 812, without the prior written approval from a commission veterinarian after consultation with the board of stewards. The commission veterinarian shall not give such approval unless the person seeking the approval can produce evidence in recognized veterinary journals or by recognized equine experts that such chemical substance has a beneficial therapeutic use in horses.

(4) No veterinarian or any other person shall dispense, sell, or furnish any feed supplement, tonic, veterinary preparation, medication, or any substance that can be administered or applied to a horse by any route, to any person within the premises of the facility unless there is a label specifying the name of the substance dispensed, the name of the dispensing person, the name of the horse or horses for which the substance is dispensed, the purpose for which said substance is dispensed, the dispensing veterinarian's recommendations for withdrawal before racing (if applicable), and the name of the person to whom dispensed, or is otherwise labeled as required by law.

(5) No person shall have in the person's possession or in areas under said person's responsibility on facility premises any feed supplement, tonic, veterinary preparation, medication, or any substance that can be administered or applied to a horse by any route unless it complies with the labeling requirements in 10.7(1)*"d"*(4).

*e.* Any person found to have administered, or caused, participated in, or attempted to participate in any way in the administration of a medication, drug, or foreign substance that caused or could have caused a violation of this rule shall be subject to disciplinary action.

*f.* The owner, trainer, groom, or any other person having charge, custody, or care of the horse is obligated to protect the horse properly and guard it against the administration or attempted administration of a substance in violation of this rule. If the stewards find that any person has failed to show proper protection and guarding of the horse, or if the stewards find that any owner, lessee, or trainer is guilty of negligence, they shall impose discipline and take other action they deem proper under any of the rules including referral to the commission.

*g.* In order for a horse to be placed on the bleeder list in Iowa through reciprocity, that horse must be certified as a bleeder in another state or jurisdiction. A certified bleeder is a horse that has raced with furosemide in another state or jurisdiction in compliance with the laws governing furosemide in that state or jurisdiction.

*h.* The possession or use of blood doping agents, including but not limited to those listed below, on the premises of a facility under the jurisdiction of the commission is forbidden:

(1) Erythropoietin;

(2) Darbepoetin;

(3) Oxyglobin®; and

(4) Hemopure®.

*i.* The use of extracorporeal shock wave therapy or radial pulse wave therapy shall not be permitted unless the following conditions are met:

(1) Any treated horse shall not be permitted to race for a minimum of ten days following treatment;

(2) The use of extracorporeal shock wave therapy or radial pulse wave therapy machines shall be limited to veterinarians licensed to practice by the commission;

(3) Any extracorporeal shock wave therapy or radial pulse wave therapy machines on the association grounds must be registered with and approved by the commission or its designee before use;

(4) All extracorporeal shock wave therapy or radial pulse wave therapy treatments must be reported to the official veterinarian on the prescribed form not later than the time prescribed by the official veterinarian.

*j.* The use of a nasogastric tube (a tube longer than six inches) for the administration of any substance within 24 hours prior to the post time of the race in which the horse is entered is prohibited without the prior permission of the official veterinarian or designee.

*k.* Non-steroidal anti-inflammatory drugs (NSAIDs).

(1) The use of one of three approved NSAIDs shall be permitted under the following conditions:

1. The level does not exceed the following permitted serum or plasma threshold concentrations which are consistent with administration by a single intravenous injection at least 24 hours before the post time for the race in which the horse is entered:

- Phenylbutazone (or its metabolite oxyphenylbutazone) – 5 micrograms per milliliter;
- Flunixin – 20 nanograms per milliliter;
- Ketoprofen – 10 nanograms per milliliter.

2. The NSAIDs listed in numbered paragraph "1" or any other NSAIDs are prohibited from being administered within the 24 hours before post time for the race in which the horse is entered.

3. The presence of more than one of the three approved NSAIDs, with the exception of phenylbutazone in a concentration below 1 microgram per milliliter of serum or plasma, or the presence of any unapproved NSAID in the post-race serum or plasma sample is not permitted. The use of all but one of the approved NSAIDs shall be discontinued at least 48 hours before the post time for the race in which the horse is entered.

(2) Any horse to which an NSAID has been administered shall be subject to having a blood sample(s), urine sample(s) or both taken at the direction of the official veterinarian to determine the quantitative NSAID level(s) or the presence of other drugs which may be present in the blood or urine sample(s).

**10.7(2)** *Sample collection.*

*a.* Under the supervision of the commission veterinarian, urine, blood, and other specimens shall be taken and tested from any horse that the stewards, commission veterinarian, or the commission's representatives may designate. The samples shall be collected by the commission veterinarian or other person or persons the commission may designate. Each sample shall be marked or numbered and bear information essential to its proper analysis; but the identity of the horse from which the sample was taken or the identity of its owners or trainer shall not be revealed to the official chemist or the staff of the chemist. The container of each sample shall be sealed as soon as the sample is placed therein.

*b.* A facility shall have a detention barn under the supervision of the commission veterinarian for the purpose of collecting body fluid samples for any tests required by the commission. The building, location, arrangement, furnishings, and facilities including refrigeration and hot and cold running water must be approved by the commission. A security guard, approved by the commission, must be in attendance at each access to the detention barn during the hours designated by the commission.

*c.* No unauthorized person shall be admitted at any time to the building or the area utilized for the purpose of collecting the required body fluid samples or the area designated for the retention of horses pending the obtaining of body fluid samples.

*d.* During the taking of samples from a horse, the owner, responsible trainer, or a representative designated by the owner or trainer may be present and witness the taking of the sample and so signify in writing. Failure to be present and witness the collection of the samples constitutes a waiver by the owner, trainer, or representative of any objections to the source and documentation of the sample.

*e.* The commission veterinarian, the board of stewards, agents of the division of criminal investigation, or commission representative may take samples of any medicine or other materials suspected of containing improper medication, drugs, or other substance which could affect the racing condition of a horse in a race, which may be found in barns or elsewhere on facility premises or in the possession of any person connected with racing, and the same shall be delivered to the official chemist for analysis.

*f.* Nothing in these rules shall be construed to prevent:

(1) Any horse in any race from being subjected by the order of a steward or the commission veterinarian to tests of body fluid samples for the purpose of determining the presence of any foreign substance.

(2) The state steward or the commission veterinarian from authorizing the splitting of any sample.

(3) The commission or commission veterinarian from requiring body fluid samples to be stored in a frozen state for future analysis.

*g.* Before leaving the racing surface, the trainer shall ascertain the testing status of the horse under the trainer's care from the commission veterinarian or designated detention barn representative.

**10.7(3)** *Chemists.*

*a.* Tests are to be under the supervision of the commission, which shall employ one or more chemists or contract with one or more qualified chemical laboratories to determine by chemical testing and analysis of body fluid samples whether a foreign substance, medication, drug or metabolic derivative thereof is present.

*b.* All body fluid samples taken by or under direction of the commission veterinarian or commission representative shall be delivered to the laboratory of the official chemist for analysis.

*c.* The commission chemist shall be responsible for safeguarding and testing each sample delivered to the laboratory by the commission veterinarian.

*d.* The commission chemist shall conduct individual tests on each sample, screening them for prohibited substances, and conducting other tests to detect and identify any suspected prohibited substance or metabolic derivative thereof with specificity. Pooling of samples shall be permitted only with the knowledge and approval of the commission.

*e.* Upon the finding of a test negative for prohibited substances, the remaining portions of the sample may be discarded. Upon the finding of tests suspicious or positive for prohibited substances, the tests shall be reconfirmed, and the remaining portion, if available, of the sample shall be preserved and protected for two years following close of meet.

*f.* The commission chemist shall submit to the commission a written report as to each sample tested, indicating by sample tag identification number, whether the sample was tested negative or positive for prohibited substances. The commission chemist shall report test findings to no person other than the administrator or commission representative, with the exception of notifying the state stewards of all positive tests.

*g.* In the event the commission chemist should find a sample suspicious for a prohibited medication, additional time for test analysis and confirmation may be requested.

*h.* In reporting to the state steward a finding of a test positive for a prohibited substance, the commission chemist shall present documentary or demonstrative evidence acceptable in the scientific community and admissible in court in support of the professional opinion as to the positive finding.

*i.* No action shall be taken by the state steward until an official report signed by the chemist properly identifying the medication, drug, or other substance as well as the horse from which the sample was taken has been received.

*j.* The cost of the testing and analysis shall be paid by the commission to the official chemist. The commission shall then be reimbursed by each facility on a per-sample basis so that each facility shall bear only its proportion of the total cost of testing and analysis. The commission may first receive payment from funds provided in Iowa Code chapter 99D, if available.

**10.7(4)** *Practicing veterinarian.*

*a.* Prohibited acts.

(1) Ownership. A licensed veterinarian practicing at any meeting is prohibited from possessing any ownership, directly or indirectly, in any racing animal racing during the meeting.

(2) Wagering. Veterinarians licensed by the commission as veterinarians are prohibited from placing any wager of money or other thing of value directly or indirectly on the outcome of any race conducted at the meeting at which the veterinarian is furnishing professional service.

(3) Prohibition of furnishing injectable materials. No veterinarian shall within the facility premises furnish, sell, or loan any hypodermic syringe, needle, or other injection device, or any drug, narcotic, or prohibited substance to any other person unless with written permission of the stewards.

*b.* The use of other than single-use disposable syringes and infusion tubes on facility premises is prohibited. Whenever a veterinarian has used a hypodermic needle or syringe, the veterinarian shall destroy the needle and syringe and remove the needle and syringe from the facility premises.

*c.* Veterinarians must submit daily to the commission veterinarian on a prescribed form a report of all procedures, medications and other substances which the veterinarian prescribed, administered, or dispensed for racing animals registered at the current race meeting as provided in Iowa Code section 99D.25(10). Reports shall be submitted not later than noon the day following the treatments' being reported. Reports shall include the racing animal, trainer, procedure, medication or other substance, dosage or quantity, route of administration, date and time administered, dispensed, or prescribed. Reports shall be signed by the practicing veterinarian.

*d.* Within 20 minutes following the administration of furosemide, the veterinarian must deliver to the commission veterinarian or commission representative a signed affidavit certifying information regarding the treatment of the horse. The statement must include, at a minimum, the name of the practicing veterinarian, the tattoo number of the horse, the location of the barn and stall where the treatment occurred, the race number of the horse, the name of the trainer, and the time that the furosemide was administered. This affidavit must be signed by the trainer or trainer's designee who witnessed the administration of furosemide. The veterinarian shall not administer the furosemide if a witness is not present. Furosemide shall only be administered (by a single intravenous injection) in a dose level allowed by Iowa Code section 99D.25A, subsection 7.

*e.* Each veterinarian shall report immediately to the commission veterinarian any illness presenting unusual or unknown symptoms in a racing animal entrusted into the veterinarian's care.

*f.* Practicing veterinarians may have employees licensed as veterinary assistants working under their direct supervision. Activities of these employees shall not include direct treatment or diagnosis of any animal. The practicing veterinarian must be present if a veterinary assistant is to have access

to injection devices or injectables. The practicing veterinarian shall assume all responsibility for a veterinary assistant.

*g.* Equine dentistry is considered a function of veterinary practice by the Iowa veterinary practice Act. Any dental procedures performed at the facility must be performed by a licensed veterinarian or a licensed veterinary assistant.

*h.* Unless approved by the commission veterinarian, veterinarians shall not have contact with an entered horse on race day except for the administration of furosemide.

[**ARC 7757B**, IAB 5/6/09, effective 6/10/09]

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◊ Two or more ARCs

1 Effective date (1/4/89) of 10.4(14), 10.4(19)*"b"* and 10.6 delayed by the Administrative Rules Review Committee until January 9, 1989, at its December 13, 1988, meeting; effective date of January 4, 1989, delayed seventy days by this Committee at its January 5, 1989, meeting. Effective date delay lifted by the Committee at its February 13, 1989, meeting.

2 Effective date of 10.6(2)*"g"*(3) second paragraph delayed until adjournment of the 1997 Session of the General Assembly by the Administrative Rules Review Committee at its meeting held October 8, 1996.

3 June 19, 2013, effective date of 10.4(4)*"a"*(6) and 10.4(4)*"d"*(3)"1" [Items 17 and 18 of ARC 0734C, respectively] delayed until the adjournment of the 2014 General Assembly by the Administrative Rules Review Committee at its meeting held June 11, 2013.

# CHAPTER 11
# GAMBLING GAMES

## 491—11.1(99F) Definitions.

*"Administrator"* means the administrator of the racing and gaming commission or the administrator's designee.

*"Coin"* means tokens, nickels, and quarters of legal tender.

*"Commission"* means the racing and gaming commission.

*"Currency"* means any coin or paper money of legal tender and paper forms of cashless wagering.

*"Discount rate"* means either the current prime rate as published in the Wall Street Journal or a blended rate computed by obtaining quotes for the purchase of qualified investments at least three times per month.

*"Distributor's license"* means a license issued by the administrator to any entity that sells, leases, or otherwise distributes gambling games or implements of gambling to any entity licensed to conduct gambling games pursuant to Iowa Code chapter 99F.

*"Facility"* means an entity licensed by the commission to conduct gaming operations in Iowa.

*"Facility grounds"* means all real property utilized by the facility in the conduct of its gaming activity, including the grandstand, concession stands, offices, parking lots, and any other areas under the jurisdiction of the commission.

*"Gambling game"* means any game of chance approved by the commission for wagering, including, but not limited to, gambling games authorized by this chapter.

*"Government sponsored enterprise debt instrument"* means a negotiable, senior, noncallable debt obligation issued by an agency of the United States or an entity sponsored by an agency of the United States that on the date of funding possesses an issuer credit rating equivalent to the highest investment grade rating given by Standard & Poor's or Moody's Investment Services.

*"Implement of gambling"* means any device or object determined by the administrator to directly or indirectly influence the outcome of a gambling game; collect wagering information while directly connected to a slot machine; or be integral to the conduct of a commission-authorized gambling game.

*"Manufacturer's license"* means a license issued by the administrator to any entity that assembles, fabricates, produces, or otherwise constructs a gambling game or implement of gambling used in the conduct of gambling games pursuant to Iowa Code chapter 99F.

*"Present value"* means the current value of a future payment or series of payments, discounted using the discount rate.

*"Qualified investment"* means an Iowa state issued debt instrument, a United States Treasury debt instrument or a government sponsored enterprise debt obligation.

*"Reserve"* means an account with an independent financial institution or brokerage firm consisting of cash and qualified investments used to satisfy periodic payments of prizes.

*"Slot machine"* means a mechanical or electronic gambling game device into which a player may deposit currency or forms of cashless wagering and from which certain numbers of credits are awarded when a particular configuration of symbols or events is displayed on the machine.

*"Storage media"* means EPROMs, ROMs, flash-ROMs, DVDs, CD-ROMs, compact flashes, hard drives and any other types of program storage device.

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## 491—11.2(99F) Conduct of all gambling games.

**11.2(1)** *Commission policy.* It is the policy of the commission to require that all facilities conduct gambling games in a manner suitable to protect the public health, safety, morals, good order, and general welfare of the state. Responsibility for the employment and maintenance of suitable methods of operation rests with the facility. Willful or persistent use or toleration of methods of operation deemed unsuitable in the sole discretion of the commission will constitute grounds for disciplinary action, up to and including license revocation.

**11.2(2)** *Activities prohibited.* A facility is expressly prohibited from the following activities:

*a.* Failing to conduct advertising and public relations activities in accordance with decency, dignity, good taste, and honesty.

*b.* Permitting persons who are visibly intoxicated to participate in gaming activity.

*c.* Failing to comply with or make provision for compliance with all federal, state, and local laws and rules pertaining to the operation of a facility including payment of license fees, withholding payroll taxes, and violations of alcoholic beverage laws or regulations.

*d.* Possessing, or permitting to remain in or upon any facility grounds, any associated gambling equipment which may have in any manner been marked, tampered with, or otherwise placed in a condition or operated in a manner which might affect the game and its payouts.

*e.* Permitting, if the facility was aware of, or should have been aware of, any cheating.

*f.* Possessing or permitting to remain in or upon any facility grounds, if the facility was aware of, or should have been aware of, any cheating device whatsoever; or conducting, carrying on, operating, or dealing any cheating or thieving game or device on the grounds.

*g.* Possessing or permitting to remain in or upon any facility grounds, if the facility was aware of, or should have been aware of, any gambling device which tends to alter the normal random selection of criteria which determines the results of the game or deceives the public in any way.

*h.* Failing to conduct gaming operations in accordance with proper standards of custom, decorum, and decency; or permitting any type of conduct that reflects negatively on the state or acts as a detriment to the gaming industry.

*i.* Denying a commissioner or commission representative, upon proper and lawful demand, information or access to inspect any portion of the gaming operation.

**11.2(3)** *Gambling aids.* No person shall use, or possess with the intent to use, any calculator, computer, or other electronic, electrical, or mechanical device that:

*a.* Assists in projecting the outcome of a game.

*b.* Keeps track of cards that have been dealt.

*c.* Keeps track of changing probabilities.

**11.2(4)** *Wagers.* Wagers may only be made:

*a.* By a person present at a facility.

*b.* In the form of chips, coins, or other cashless wagering.

*c.* By persons 21 years of age or older.

[**ARC 8029B**, IAB 8/12/09, effective 9/16/09]

**491—11.3(99F) Gambling games approved by the commission.** The commission may approve a gambling game by administrative rule, resolution, or motion.

**491—11.4(99F) Approval for distribution, operation, or movement of gambling games and implements of gambling.**

**11.4(1)** *Approval.* Prior to distribution, a distributor shall request that the administrator inspect, investigate, and approve a gambling game or implement of gambling for compliance with commission rules and the standards required by a commission-designated independent testing facility. The distributor, at its own expense, must provide the administrator and independent testing facility with information and product sufficient to determine the integrity and security of the product, including independent testing conducted by a designated testing facility. The commission shall designate up to two independent testing facilities for the purpose of certifying electronic gambling games or implements of gambling.

**11.4(2)** *Trial period.* Prior to or after commission approval and after completing a review of a proposed gambling game, the administrator may require a trial period of up to 180 days to test the gambling game in a facility. During the trial period, minor changes in the operation or design of the gambling game may be made with prior approval of the administrator. During the trial period, a gambling game distributor shall not be entitled to receive revenue of any kind from the operation of that gambling game.

**11.4(3)** *Gambling game submissions.* Prior to conducting a commission-authorized gambling game or for a trial period, a facility shall submit proposals for game rules, procedures, wagers, shuffling procedures, dealing procedures, cutting procedures, and payout odds. The gambling game submission, or requests for modification to an approved submission, shall be in writing and approved by the administrator or a commission representative prior to implementation.

**11.4(4)** *Public notice.* The public shall have access to the rules of play, payout schedules, and permitted wagering amounts. Signage shall be conspicuously posted on the gaming floor to direct patrons to the gaming floor area where this information can be viewed. All participants in all licensed gambling games are required to know and follow the rules of play. No forms of cheating shall be permitted.

**11.4(5)** *Operation.* Each gambling game shall operate and play in accordance with the representation made to the commission and the public at all times. The administrator or commission representative may order the withdrawal of any gambling game suspected of malfunction or misrepresentation, until all deficiencies are corrected. The administrator or commission representative may require additional testing by an independent testing facility at the expense of the licensee or distributor for the purpose of complying with this subrule.

**11.4(6)** *Distribution, movement and disposal.*

*a.* Except as otherwise authorized by the administrator, written notice, submitted by facsimile or electronic mail, shall be filed with the commission when a gambling game or implement of gambling is shipped, moved or disposed of. The written notice shall be provided as follows:

(1) At least five calendar days prior to arrival of a gambling game or implement of gambling at a licensed facility, the licensed distributor shall provide notice.

(2) At least one day before a gambling game is removed from or disposed of by a licensed facility, the licensed facility or the owner shall provide notice. All methods of disposal for gambling games or implements of gambling are subject to administrator approval.

*b.* The administrator may approve licensee transfers of gambling games or implements of gambling among subsidiaries of the licensee's parent company.

[**ARC 8029B**, IAB 8/12/09, effective 9/16/09; **ARC 9018B**, IAB 8/25/10, effective 9/29/10; **ARC 1456C**, IAB 5/14/14, effective 6/18/14]

**491—11.5(99F) Gambling games authorized.**

**11.5(1)** Craps, roulette, twenty-one (blackjack), baccarat, and poker are authorized as table games. The administrator is authorized to approve multiplayer electronic devices simulating these games, subject to the requirements of rule 491—11.4(99F) and subrule 11.5(3).

**11.5(2)** Slot machines, video poker, and other video games of chance, both progressive and nonprogressive, shall be allowed as slot machine games, subject to the administrator's approval of individual slot machine prototypes and game variations. For racetrack enclosures without a table games license, video machines which simulate table games of chance shall not be allowed.

**11.5(3)** The administrator is authorized to approve variations of approved gambling games and bonus features or progressive wagers associated with approved gambling games, subject to the requirements of rule 491—11.4(99F).

*a.* Features utilizing a controller or a system linked to gambling games that do not require direct monetary consideration and are not otherwise integrated within a slot machine game theme may be allowed as bonus features. Payouts from these bonus features may be included in winnings for the calculation of wagering tax adjusted gross receipts when the following conditions are met:

(1) The only allowable nonmonetary consideration to be expended by a participant shall be active participation in a gambling game with a bonus feature or use of a player's club card, or both.

(2) The actual bonus payout deductible in any month from all qualified system bonuses requiring no additional direct monetary consideration shall be:

1. No more than 2 percent of the coin-in for all slot machines linked to any system bonuses for that month, if slot machines linked to system bonuses exceed 20 percent of the total number of slot machines; or

2. No more than 3 percent of the coin-in for all slot machines linked to any system bonuses for that month, if slot machines linked to system bonuses are less than or equal to 20 percent of the total number of slot machines; or

3. No more than 3 percent of the amount wagered on the qualifying bets for all table games linked to any system bonus for that month.

(3) The probability of winning a system bonus award shall be the same for all persons participating in the bonus feature.

*b.* Noncashable credit payouts may be allowed as bonus feature payouts subject to the administrator's approval of individual accounting, expiration and redemption practices.

**11.5(4)** Gambling games of chance involving prizes awarded to participants through promotional activities at a facility.

*a.* *Proposals.* Gambling games of chance involving prizes awarded to participants through promotional activities shall be authorized and approved by the commission. Before a facility may conduct such gambling games, all proposals for terms, game rules, prizes, dates of operation and procedures for any gambling games of chance involving prizes awarded through promotional activities shall be submitted in writing to a commission representative for approval. The written submission shall be submitted to the commission representative at least 14 days in advance of the planned activity. Any changes to an approved gambling game of chance involving prizes awarded to participants through promotional activities shall also require the approval of the commission representative. Gambling games of chance involving prizes awarded to participants through promotional activities shall meet the following requirements:

(1) All rules of play shall be in writing and posted for public inspection;

(2) Such games shall be limited to participants 21 years of age or older;

(3) All games shall be conducted in a fair and honest manner, and all prizes advertised shall be awarded in accordance with the posted rules of play;

(4) All such games shall be conducted on the gaming floor and shall be conducted in accordance with the submission approved by the commission representative;

(5) No entry fees shall be permitted; and

(6) All employees of the facility shall be prohibited from participation.

*b.* *Limits.* Gambling games of chance involving prizes awarded to participants through promotional activities conducted at a facility shall be subject to the wagering tax pursuant to Iowa Code section 99F.11. However, in determining the adjusted gross receipts, the facility may consider all nonmonetary consideration expended by a participant and shall certify to the commission that the nonmonetary consideration is at least equal to the value of the prizes awarded.

[**ARC 8029B**, IAB 8/12/09, effective 9/16/09; **ARC 9018B**, IAB 8/25/10, effective 9/29/10; **ARC 9987B**, IAB 2/8/12, effective 3/14/12; **ARC 0734C**, IAB 5/15/13, effective 6/19/13]

**491—11.6(99F) Gambling game-based tournaments.**

**11.6(1)** *Proposals.* Proposals for terms, game rules, entry fees, prizes, dates, and procedures must be submitted in writing and approved by a commission representative before a facility conducts any tournament. Any changes to approved tournaments must be submitted to the commission representative for review and approval prior to being implemented. The written proposal or change shall be submitted to a commission representative at least 14 days in advance of the planned activity. Rules, fees, and a schedule of prizes must be made available to the player prior to entry.

**11.6(2)** *Limits.* Tournaments must be based on gambling games authorized by the commission. Entry fees, less prizes paid, are subject to the wagering tax pursuant to Iowa Code section 99F.11. In determining adjusted gross receipts, to the extent that prizes paid out exceed entry fees received, the facility shall be deemed to have paid the fees for the participants.

**11.6(3)** *Tournament chips.* Tournament chips used as wagers in table game tournament proposals approved pursuant to this rule shall be imprinted with a number representing the value of the chip or shall be assigned a value. The facility shall provide that:

*a.* The assigned value of tournament chips be conspicuously displayed in the tournament area.

*b.* Internal controls which account for all tournament chips and include reconciliation, handling and variance procedures are approved by a commission representative.
[**ARC 8029B**, IAB 8/12/09, effective 9/16/09; **ARC 9987B**, IAB 2/8/12, effective 3/14/12]

**491—11.7(99F) Table game requirements.**

**11.7(1)** Removable storage media in a table game device which controls the randomness of card shufflers or progressive table game meters shall be verified and sealed with evidence tape by a commission representative prior to implementation.

**11.7(2)** Wagers. All wagers at table games shall be made by placing gaming chips or coins on the appropriate areas of the layout. Information pertaining to the minimum and maximum allowed at the table shall be posted on the game. Any other fee collected to participate in a table game shall be subject to the wagering tax pursuant to Iowa Code section 99F.11.

**11.7(3)** Craps.

*a.* Wagers must be made before the dice are thrown. "Call bets," or the calling out of bets between the time the dice leave the shooter's hand and the time the dice come to rest, not accompanied by the placement of gaming chips, are not allowed. A wager made on any bet may be removed or reduced at any time prior to a roll that decides the outcome of such wager unless the wager is a "Pass" or "Come" bet and a point has been established with respect to such bet or the wager is a proposition bet contingent on multiple rolls.

*b.* The shooter shall make a "Pass" or "Don't Pass" bet and shall handle the two selected dice with one hand before throwing the dice in a simultaneous manner.

*c.* Each die used shall be transparent.

**11.7(4)** Twenty-one.

*a.* Before the first card is dealt for each round of play, each player shall make a wager against the dealer. Once the first card of any hand has been dealt by the dealer, no player shall handle, remove, or alter any wagers that have been made until a decision has been rendered and implemented with respect to that wager. Once a wager on the insurance line, a wager to double down, or a wager to split pairs has been made and confirmed by the dealer, no player shall handle, remove, or alter the wagers until a decision has been rendered and implemented with respect to that wager, except as explicitly permitted. A facility or licensee shall not permit any player to engage in conduct that violates this paragraph.

*b.* At the conclusion of a round of play, all cards still remaining on the layout shall be picked up by the dealer in a prescribed order and in such a way that they can be readily arranged to indicate each player's hand in case of question or dispute. The dealer shall pick up the cards beginning with those of the player to the far right and moving counterclockwise around the table. The dealer's hand will be the last hand collected. The cards will then be placed on top of the discard pile. No player or spectator shall remove or alter any cards used to game at twenty-one or be permitted to do so by a casino employee.

*c.* Each player at the table shall be responsible for correctly computing the point count of the player's hand. No player shall rely on the point counts announced by the dealer without checking the accuracy of such announcement.

**11.7(5)** Roulette.

*a.* No person at a roulette table shall be issued or permitted to game with nonvalue gaming chips that are identical in color and design to value gaming chips or to nonvalue gaming chips being used by another person at that same table.

*b.* Each player shall be responsible for the correct positioning of the player's wager on the roulette layout, regardless of whether the player is assisted by the dealer. Each player must ensure that any instructions the player gives to the dealer regarding the placement of the player's wager are correctly carried out.

*c.* Each wager shall be settled strictly in accordance with its position on the layout when the ball falls to rest in a compartment of the wheel.

**11.7(6)** Big six—roulette. Rescinded IAB 2/8/12, effective 3/14/12.

**11.7(7)** Poker.

*a.* When a facility conducts poker with an imprest dealer gaming chip bank, the rules in 491—Chapter 12 for closing and distributing or removing gaming chips to or from gaming tables do not apply. The entire amount of the table rake is subject to the wagering tax pursuant to Iowa Code section 99F.11. Proposals for imprest dealer gaming chip banks must be submitted in writing and approved by a commission representative prior to use and must include, but not be limited to, controls to regularly monitor, investigate, and report table bank variances.

*b.* All games shall be played according to table stakes game rules as follows:

(1) Only gaming chips or coins on the table at the start of a deal shall be in play for that pot.

(2) Concealed gaming chips or coins shall not play.

(3) A player with gaming chips may add additional gaming chips between deals, provided that the player complies with any minimum buy-in requirement.

(4) A player is never obliged to drop out of contention because of insufficient gaming chips to call the full amount of a bet, but may call for the amount of gaming chips the player has on the table. The excess part of the bet made by other players is either returned to the players or used to form a side pot.

*c.* Each player in a poker game is required to act only in the player's own best interest. The facility has the responsibility of ensuring that any behavior designed to assist one player over another is prohibited. The facility may prohibit any two players from playing in the same game.

*d.* Poker games where winning wagers are paid by the facility according to specific payout odds or pay tables are permitted.

*e.* The facility shall comply with and receive approval pursuant to subrule 11.4(3) for each type of poker game offered.

*f.* The facility may elect to offer a jackpot award generated from pot contributions at a table or group of tables for predesignated high-value poker hands, subject to the following requirements:

(1) Approval of the jackpot award rules must be obtained from a commission representative prior to play.

(2) Jackpot award rules and jackpot award amounts shall be posted in a conspicuous location within the poker room. Jackpot award amounts shall be updated no less than once per day.

(3) The facility shall divide pot contributions for any single qualifying award circumstance or event into no more than three jackpot award pools.

(4) The jackpot award pool containing the highest monetary value amount shall be the amount posted in the poker room and awarded to a qualifying player or players.

(5) If additional jackpot award pools are in use, the award pool containing the highest monetary value shall be used to seed the primary jackpot award pool.

(6) All moneys collected as pot contributions to a jackpot award payout shall be distributed in their entirety to the players; no facility shall charge an administration fee for distribution of a jackpot award.

**11.7(8)** Baccarat. Before the first card is dealt for each round of play, each player is permitted to make a wager on the Banker's Hand, Player's Hand, Tie Bet, and any proposition bet if offered. All wagers shall be made by placing gaming chips on the appropriate areas of the layout. Once the first card has been dealt by the dealer, no player shall handle, remove, or alter any wagers that have been made until a decision has been rendered and implemented with respect to that wager.

[**ARC 9987B**, IAB 2/8/12, effective 3/14/12]

**491—11.8(99F) Keno.**

**11.8(1)** Keno shall be conducted using an automated ticket writing and redemption system where a game's winning numbers are selected by a random number generator.

**11.8(2)** Each game shall consist of the selection of 20 numbers out of 80 possible numbers, 1 through 80.

**11.8(3)** For any type of wager offered, the payout must be at least 70 percent.

**11.8(4)** Multigame tickets shall be limited to 20 games.

**11.8(5)** Writing or voiding tickets for a game after that game has closed is prohibited.

**11.8(6)** All winning tickets shall be valid up to a maximum of one year from the date of purchase. All expired, unclaimed winning tickets shall be subject to the requirements in 491—paragraph 12.11(2)*"b."*

**11.8(7)** The administrator shall determine minimum hardware and software requirements to ensure the integrity of play. An automated keno system must be proven to accurately account for adjusted gross receipts to the satisfaction of the administrator.

**11.8(8)** Adjusted gross receipts from keno games shall be the difference between dollar value of tickets written and dollar value of winning tickets as determined from the automated keno system. The wagering tax pursuant to Iowa Code section 99F.11 shall apply to adjusted gross receipts of keno games.

**11.8(9)** An area of a facility shall not be designated as gaming floor for the sole purpose of keno runners, who accept patron wagering funds remotely from the keno game location.

[**ARC 9018B**, IAB 8/25/10, effective 9/29/10]

**491—11.9(99F) Slot machine requirements.**

**11.9(1)** *Payout percentage.* A slot machine game must meet the following maximum and minimum theoretical percentage payouts during the expected lifetime of the game.

*a.* A slot machine game's theoretical payout must be at least 80 percent and no more than 100 percent of the amount wagered. The theoretical payout percentage is determined using standard methods of probability theory. Slot machine games with a bonus feature that is available with varying payouts based on the player's ability shall be allowed if the difference between the minimum and maximum payout for all ability-based outcomes does not exceed a 4 percent contribution to the overall theoretical payout of the slot machine game.

*b.* A slot machine game shall have a probability of obtaining the highest single advertised payout, which must statistically occur at least once in 50 million games.

**11.9(2)** *Features.* Unless otherwise authorized by the administrator, each slot machine in a casino shall have the following features:

*a.* A casino number at least two inches in height permanently imprinted, affixed, or impressed on the outside of the machine so that the number may be observed by the surveillance camera.

*b.* A clear description displayed on the slot machine of any merchandise or thing of value offered as a payout including the cash equivalent value of the merchandise or thing of value offered, the dates the merchandise or thing of value will be offered if the facility establishes a time limit upon initially offering the merchandise or thing of value, and the availability or unavailability to the patron of the optional cash equivalent value. A cash equivalent value shall be at least 75 percent of the fair market value of the merchandise or thing of value offered.

*c.* Devices, equipment, features, and capabilities, as may be required by the commission, that are specific to each slot machine after the prototype model is approved by the commission.

**11.9(3)** *Storage media.* Hardware media devices which contain game functions or characteristics, including but not limited to pay tables and random number generators, shall be verified and sealed with evidence tape by a commission representative prior to being placed in operation, as determined by the administrator.

**11.9(4)** *Posting of the actual aggregate payout percentage.* The actual aggregate payout percentage to the nearest one-tenth of 1 percent (0.1%) of all slot machine games in operation during the preceding three calendar months shall be posted at the main casino entrance, cashier cages, and slot booths by the fifteenth day of each calendar month. For the purpose of this calculation, the actual aggregate payout percentage shall be the slot revenue reported to the commission during the preceding three calendar months divided by the slot coin-in reported to the commission during the preceding three calendar months subtracted from 100 percent.

**11.9(5)** *Communication equipment.* Equipment must be installed in each slot machine that allows for communication to an online monitoring and control system accessible, with read-only access, to the commission representatives using a communications protocol provided to each licensed manufacturer by the commission for the information and control programs approved by the administrator.

**11.9(6)** *Meter clears.* Prior to the clearing of electronic accounting meters detailed in paragraph 11.10(2)*"c,"* a licensee must notify a commission representative. All meters recorded by the game must be retained according to the requirements in 491—subrule 5.4(14).

[**ARC 8029B**, IAB 8/12/09, effective 9/16/09; **ARC 9018B**, IAB 8/25/10, effective 9/29/10]

**491—11.10(99F) Slot machine hardware and software specifications.**

**11.10(1)** *Hardware specifications.*

*a.* Electrical and mechanical parts and design principles shall not subject players to physical hazards.

*b.* The battery backup, or an equivalent, for the electronic meters must be capable of maintaining accuracy of all required information for 30 days after power is discontinued from a slot machine. The backup shall be kept within the locked logic board compartment.

*c.* An identification badge permanently affixed by the manufacturer to the exterior of the cabinet shall include the following information:

(1) The manufacturer;

(2) A unique serial number;

(3) The gaming device model number; and

(4) The date of manufacture.

*d.* The operations and outcomes of each slot machine must not be adversely affected by influences from outside the device.

*e.* The internal space of a slot machine shall not be readily accessible when the front door is both closed and locked.

*f.* Logic boards and software storage media which significantly influence the operation of the game must be in a locked compartment within the slot machine.

*g.* The currency drop container must be in a locked compartment within or attached to the slot machine. Access to the currency storage areas shall be secured by separate locks which shall be fitted with sensors that indicate door open/closed or stacker removed.

*h.* No hardware switches may be installed that alter the pay tables or payout percentages in the operation of a slot machine. Hardware switches may be installed to control graphic routines, speed of play, and sound.

*i.* A display which automatically illuminates when a player has won a jackpot or other award not paid automatically and totally by the slot machine and which advises players that they will be paid by an attendant shall be located conspicuously on the slot machine.

*j.* A payglass/video display shall be clearly identified and shall accurately state the rules of the game and the award that will be paid to the player when the player obtains a specific combination of symbols or other criteria. All information required in this paragraph must be available and readable at all times the slot machine is in service.

*k.* A light that automatically illuminates when a player has won an amount or is redeeming credits that the machine cannot automatically pay, an error condition has occurred, or a "Call attendant" condition has been intitiated by the player shall be located conspicuously on top of the gaming device. At the discretion of the administrator, tower lights may be shared among certain machines or substituted by an audible alarm.

*l.* If credits are collected and the total credit value is unable to be paid automatically by the gaming device, the device shall lock up until the credits have been paid and the amount collected has been cleared by an attendant handpay or normal operation has been restored.

**11.10(2)** *Software specifications.*

*a.* *Random number generator.* Each slot machine must have a random number generator to determine the results of the game symbol selections or production of game outcomes. The selection shall:

(1) Be statistically independent.

(2) Conform to the desired random distribution.

(3) Pass various recognized statistical tests.

(4) Be unpredictable.

(5) Have a testing confidence level of 99 percent.

*b.* *Continuation of game after malfunction is cleared.* Each slot machine must be capable of continuing the current game with all current game features after a malfunction is cleared. This

paragraph does not apply if a slot machine is rendered totally inoperable; however, the current wager and all credits appearing on the screen prior to the malfunction must be returned to the player.

*c.* *Electronic accounting meters.* Each slot machine must maintain electronic accounting meters at all times, regardless of whether the slot machine is being supplied with power. For each meter recording values, the slot machine must be capable of maintaining no fewer than ten digits. For each meter recording occurrences, the slot machine must be capable of maintaining no fewer than eight digits. No slot machine may have a mechanism that will cause the electronic accounting meters to automatically clear due to an error. The electronic meters must record, at a minimum, the following:

(1) Coin-in.
(2) Coin-out.
(3) Drop.
(4) Attendant-paid jackpots.
(5) Currency in.
(6) Currency out.
(7) External door.
(8) Bill validator door.
(9) Machine-paid external bonus payout.
(10) Attendant-paid external bonus payout.
(11) Attendant-paid progressive payout.
(12) Machine-paid progressive payout.

*d.* *Error conditions.* Each slot machine shall display and report error conditions to the online monitoring system. For machines that display only a code, definitions for all codes must be permanently affixed to the interior of the slot machine. Error conditions that must be displayed and reported include but are not limited to:

(1) Currency in.
(2) Currency out.
(3) Door open.
(4) RAM.
(5) Low battery.
(6) Program authentication.
(7) Reel spin.
(8) Power reset.

**11.10(3)** *Previous slot machine models.* Subject to administrator approval of specific gaming devices, slot machines may be used that do not meet the requirements of subrules 11.10(1) and 11.10(2) but have been certified under previously approved specifications by a commission-designated independent testing facility and maintain a current certification.

[**ARC 8029B**, IAB 8/12/09, effective 9/16/09]

**491—11.11(99F) Slot machine specifications.** Rescinded IAB 8/12/09, effective 9/16/09.

**491—11.12(99F) Progressive slot machines.**

**11.12(1)** *Meter required.* A progressive machine is a slot machine game with an award amount that increases based on a function of credits bet on the slot machine and that is awarded when a particular configuration of symbols or events is displayed on the slot machine. Random events generating awards independent of the base slot machine game and not dependent on any specific slot machine game shall be considered bonus features. A progressive slot machine or group of linked progressive slot machines must have a meter showing the progressive jackpot payout.

**11.12(2)** *Progressive controllers.* The reset or base value and the rate of increment of a progressive jackpot game must be filed with a commission representative prior to implementation. A reset or base value must equal or exceed the equivalent nonprogressive jackpot payout.

**11.12(3)** *Limits.* A facility may impose a limit on the progressive jackpot payout of a slot machine if the limit imposed is greater than the progressive jackpot payout at the time the limit is imposed. The

facility must prominently display a notice informing the public of the limit. No progressive meter may be turned back to a lesser amount unless one of the following circumstances occurs:

*a.* The amount shown on the progressive meter is paid to a player as a jackpot.

*b.* It is necessary to adjust the progressive meter to prevent it from displaying an amount greater than the limit imposed by the facility.

*c.* It is necessary to change the progressive indicator because of game malfunction.

**11.12(4)** *Transfer of jackpots.* In the event of malfunction, replacement, or other reason approved by the commission, a progressive jackpot that is removed shall be transferred, less the reset value, to other progressive slot machine jackpots of similar progressive wager and probability at the same facility within 30 days from the removal date. In the event a similar progressive jackpot at the same facility is unavailable, other transfers shall be allowed. A commission representative shall be notified in writing prior to a removal or transfer.

**11.12(5)** *Records required.* Records must be maintained that record the amount shown on a progressive jackpot meter. Supporting documents must be maintained to explain any reduction in the payoff amount from a previous entry. The records and documents must be retained for a period of three years unless permission to destroy them earlier is given in writing by the administrator.

**11.12(6)** *Transfer of progressive slot machines.* A progressive slot machine, upon permission of the administrator, may be moved to a different facility if a bankruptcy, loss of license, or other good cause warrants.

**11.12(7)** *Linked machines.* Each machine on the link shall have the same probability of winning the progressive jackpot, adjusted for the total amount wagered. The product of the odds of winning the progressive jackpot multiplied by the maximum amount wagered shall be equal for all games on the link.

**11.12(8)** *Wide area progressive systems.* A wide area progressive system is a method of linking progressive slot machines or electronic gaming machines by secured data communication as part of a network that connects participating facilities. The purpose of a wide area progressive system is to offer a common progressive jackpot (system jackpot) at all participating locations within Iowa or in multiple states. The operation of a wide area progressive system (multilink) is permitted, subject to the following conditions:

*a.* The provider of a multilink (provider) shall be an entity licensed as a manufacturer, a distributor, or an operator of gambling games within the state of Iowa or be the qualified parent company of an operator of gambling games within the state of Iowa. No entity shall be licensed for the sole purpose of providing a multilink.

*b.* Prior to operation of a multilink, the provider shall submit to the administrator for review and approval information sufficient to determine the integrity and security of the multilink. The information must include, but is not limited to, the following:

(1) Central system site location, specifications, and operational procedures.

(2) Encryption and method of secured communication over the multilink and between facilities.

(3) Method and process for obtaining meter data from slot machines on the multilink.

(4) Disbursement options for jackpot payoffs, including information for periodic payments. Periodic payment information, including number of payments and time between payments must be displayed as part of the slot machine pay table or prominently displayed on the face of the slot machine.

(5) Jackpot contribution rates, including information sufficient to determine contributions to the jackpot are consistent across all entities participating in the multilink. Any subsequent changes to the contribution rate of a multilink jackpot must be submitted to the administrator for review and approval.

(6) Jackpot verification procedures.

(7) Jackpot discontinuation procedures, including procedures for distribution of contributions to another jackpot or return of pro rata shares to participating facilities.

*c.* The provider of the multilink shall, upon request, supply reports and information to the administrator which detail the contributions and economic activity of the system, subject to the following requirements:

(1) Aggregate and detail reports that show both the economic activity of the entire multilink, as well as details of each machine on the multilink.

(2) Upon invoicing a facility, details regarding each machine at the facility and each machine's contribution to the multilink for the period of the invoice shall be supplied, as well as any other details required by the administrator.

*d.* Concurrent jackpots which occur before the multilink jackpot meters show reset and updated jackpot amounts will be deemed to have occurred simultaneously. Each winner shall receive the full amount shown on the system jackpot meter.

*e.* The provider must suspend play on the multilink if a communication failure of the system cannot be corrected within 24 consecutive hours.

*f.* A meter that shows the amount of the system jackpot must be conspicuously displayed at or near the machines to which the jackpot applies. Jackpot meters may show amounts that differ from the actual system jackpot, due to delays in communication between sites and the central system, but meters shall not display an incorrect amount for an awarded jackpot.

*g.* In calculating adjusted gross receipts, a facility may deduct its pro rata share of the present value of any system jackpots awarded. Such deduction shall be listed on the detailed accounting records supplied by the provider. A facility's pro rata share is based on the amount of coin-in from that facility's machines on the multilink, compared to the total amount of coin-in on the whole system for the time period between awarded jackpots.

*h.* In the event a facility ceases operations and a progressive jackpot is awarded subsequent to the last day of the final month of operation, the facility may not file an amended wagering tax submission or make a claim for a wagering tax refund based on its contributions to that particular progressive prize pool.

*i.* The payment of any system jackpot offered on a multilink shall be administered by the provider, and the provider shall have sole liability for payment of any system jackpot the provider administers.

*j.* The provider shall comply with the following:

(1) A reserve shall be established and maintained by the provider in an amount of not less than the sum of the following amounts:

1. The present value of the aggregate remaining balances owed on all jackpots previously won by patrons on the multilink.
2. The present value of the amount currently reflected on the jackpot meters of the multilink.
3. The present value of one additional reset (start amount) of the multilink.

(2) The reserve shall continue to be maintained until all payments owed to winners of the system jackpots have been made.

(3) For system jackpots disbursed in periodic payments, any qualified investment shall be purchased within 90 days following notice of the win of the system jackpot, and a copy of such qualified investment shall be provided to the administrator within 30 days of purchase. Any qualified investment shall have a surrender value at maturity, excluding any interest paid before the maturity date, equal to or greater than the value of the corresponding periodic jackpot payment and shall have a maturity date prior to the date the periodic jackpot payment is required to be made.

(4) The provider shall not be permitted to sell, trade, or otherwise dispose of any qualified investments prior to their maturity unless approval to do so is first obtained from the administrator.

(5) Upon becoming aware of an event of noncompliance with the terms of the reserve requirement mandated by subparagraph 11.12(8)*"j"*(1) above, the provider must immediately notify the administrator of such event. An event of noncompliance includes a nonpayment of a jackpot periodic payment or a circumstance which may cause the provider to be unable to fulfill, or which may otherwise impair the provider's ability to satisfy, the provider's jackpot payment obligations.

(6) On a quarterly basis, the provider must deliver to the administrator a calculation of system reserves required under subparagraph 11.12(8)*"j"*(1) above. The calculation shall come with a certification of financial compliance signed by a duly authorized financial officer of the provider, on a form prescribed by the administrator, validating the calculation.

(7) The reserve required under subparagraph 11.12(8)*"j"*(1) must be examined by an independent certified public accountant according to procedures approved by the administrator. Two copies of the

report must be submitted to the administrator within 90 days after the conclusion of the provider's fiscal year.

*k.* For system jackpots disbursed in periodic payments, subsequent to the date of the win, a winner may be offered the option to receive, in lieu of periodic payments, a discounted single cash payment in the form of a "qualified prize option," as that term is defined in Section 451(h) of the Internal Revenue Code. The provider shall calculate the single cash payment based on the discount rate. Until the new discount rate becomes effective, the discount rate selected by the provider shall be used to calculate the single cash payment for all qualified prizes that occur subsequent to the date of the selected discount rate.

*l.* Multilinks to be offered in conjunction with jurisdictions in other states within the United States are permitted. Multistate multilinks are subject to the requirements of this subrule; in addition, any multistate plans or controls are subject to administrator review and approval.

[**ARC 7757B**, IAB 5/6/09, effective 6/10/09; **ARC 8029B**, IAB 8/12/09, effective 9/16/09; **ARC 9018B**, IAB 8/25/10, effective 9/29/10; **ARC 1876C**, IAB 2/18/15, effective 3/25/15]

**491—11.13(99F) Licensing of manufacturers and distributors of gambling games or implements of gambling.**

**11.13(1)** *Impact on gambling.* In considering whether a manufacturer or distributor applicant will be licensed or a specific product will be distributed, the administrator shall give due consideration to the economic impact of the applicant's product, the willingness of a licensed facility to offer the product to the public, and whether its revenue potential warrants the investigative time and effort required to maintain effective control over the product.

**11.13(2)** *Licensing standards.* Standards which shall be considered when determining the qualifications of an applicant shall include, but are not limited to, financial stability; business ability and experience; good character and reputation of the applicant as well as all directors, officers, partners, and employees; integrity of financial backers; and any effect on the Iowa economy.

**11.13(3)** *Application procedure.* Application for a manufacturer's or a distributor's license shall be made to the commission for approval by the administrator. In addition to the application, the following must be completed and presented when the application is filed:

*a.* Disclosure of ownership interest, directors, or officers of licensees.

(1) An applicant or licensee shall notify the administrator of the identity of each director, corporate officer, owner, partner, joint venture participant, trustee, or any other person who has any beneficial interest of 5 percent or more, direct or indirect, in the business entity. For any of the above, as required by the administrator, the applicant or licensee shall submit background information on forms supplied by the division of criminal investigation and any other information the administrator may require.

For purposes of this rule, beneficial interest includes all direct and indirect forms of ownership or control, voting power, or investment power held through any contract, lien, lease, partnership, stockholding, syndication, joint venture, understanding, relationship (including family relationship), present or reversionary right, title or interest, or otherwise.

(2) For ownership interests of less than 5 percent, the administrator may request a list of these interests. The list shall include names, percentages owned, addresses, social security numbers, and dates of birth. The administrator may request the same information required of those individuals in subparagraph (1) above.

*b.* Investigative fees.

(1) Advance payment. The department of public safety may request payment of the investigative fee in advance as a condition to beginning investigation.

(2) Payment required. The administrator may withhold final action with respect to any application until all investigative fees have been paid in full.

*c.* A bank or cashier's check made payable to the Iowa Racing and Gaming Commission for the annual license fee as follows:

(1) A manufacturer's license shall be $250.

(2) A distributor's license shall be $1,000.

*d.* A copy of each of the following:

(1) Articles of incorporation and certificate of incorporation, if the business entity is a corporation.

(2) Partnership agreement, if the business entity is a partnership.

(3) Trust agreement, if the business entity is a trust.

(4) Joint venture agreement, if the business entity is a joint venture.

(5) List of employees of the aforementioned who may have contact with persons within the state of Iowa.

*e.* A copy of each of the following types of proposed distribution agreements, where applicable:

(1) Purchase agreement(s).

(2) Lease agreement(s).

(3) Bill(s) of sale.

(4) Participation agreement(s).

*f.* Supplementary information. Each applicant shall promptly furnish the administrator with all additional information pertaining to the application or the applicant which the administrator may require. Failure to supply the information requested within five days after the request has been received by the applicant shall constitute grounds for delaying consideration of the application.

*g.* Any and all changes in the applicant's legal structure, directors, officers, or the respective ownership interests must be promptly filed with the administrator.

*h.* The administrator may deny, suspend, or revoke the license of an applicant or licensee in which a director, corporate officer, or holder of a beneficial interest includes or involves any person or entity which would be, or is, ineligible in any respect, such as through want of character, moral fitness, financial responsibility, professional qualifications, or due to failure to meet other criteria employed by the administrator, to participate in gaming regardless of the percentage of ownership interest involved. The administrator may order the ineligible person or entity to terminate all relationships with the licensee or applicant, including divestiture of any ownership interest or beneficial interest at acquisition cost.

*i.* Disclosure. Disclosure of the full nature and extent of all beneficial interests may be requested by the administrator and shall include the names of individuals and entities, the nature of their relationships, and the exact nature of their beneficial interest.

*j.* Public disclosure. Disclosure is made for the benefit of the public, and all documents pertaining to the ownership filed with the administrator shall be available for public inspection.

**11.13(4)** *Temporary license certificates.*

*a.* A temporary license certificate may be issued at the discretion of the administrator.

*b.* Temporary licenses—period valid. Any certificate issued at the discretion of the administrator shall be valid for a maximum of 120 calendar days from the date of issue.

Failure to obtain a permanent license within the designated time may result in revocation of the license eligibility, fine, or suspension.

**11.13(5)** *Withdrawal of application.* A written notice of withdrawal of application may be filed by an applicant at any time prior to final action. No application shall be permitted to be withdrawn unless the administrator determines the withdrawal to be in the public interest. No fee or other payment relating to any application shall become refundable by reason of withdrawal of the application.

**11.13(6)** *Record keeping.*

*a.* *Record storage required.* Distributors and manufacturers shall maintain adequate records of business operations, which shall be made available to the administrator upon request. These records shall include:

(1) All correspondence with the administrator and other governmental agencies on the local, state, and federal level.

(2) All correspondence between the licensee and any of its customers who are applicants or licensees under Iowa Code chapter 99F.

(3) A personnel file on each employee of the licensee, including sales representatives.

(4) Financial records of all transactions with facilities and all other licensees under these regulations.

*b. Record retention.* The records listed in 11.13(6)*"a"* shall be retained as required by 491—subrule 5.4(14).

**11.13(7)** *Violation of laws or regulations.* Violation of any provision of any laws of the state or of the United States of America or of any rules of the commission may constitute an unsuitable method of operation, subjecting the licensee to limiting, conditioning, restricting, revoking or suspending the license, or fining the licensee, or any combination of the above.

**11.13(8)** *Consent to inspections, searches, and seizures.* Each manufacturer or distributor licensed under this chapter shall consent to inspections, searches, and seizures deemed necessary by the administrator and authorized by law in order to enforce licensing requirements.

These rules are intended to implement Iowa Code chapter 99F.

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# CHAPTER 12
# ACCOUNTING AND CASH CONTROL

**491—12.1(99F) Definitions.**

*"Casino"* means all areas of a facility where gaming is conducted.

*"Coin"* means tokens, nickels, and quarters of legal tender.

*"Commission"* means the racing and gaming commission.

*"Container"* means:

1. A box attached to a gaming table in which shall be deposited all currency in exchange for gaming chips, fill and credit slips, requests for fill forms, and table inventory forms.

2. A canister in a slot machine cabinet in which currency is retained by slot machines and not used to make change or automatic jackpot payouts.

*"Count room"* means an area in the facility where contents of containers are counted and recorded.

*"Currency"* means any coin or paper money of legal tender and paper forms of cashless wagering.

*"Drop"* means removing the containers from the casino to the count room.

*"Facility"* means an entity licensed by the commission to conduct gaming operations in Iowa.

*"Hopper"* means a payout reserve container in which coins are retained by a slot machine to automatically pay jackpots.

*"Internal controls"* means the facility's system of internal controls.

*"Request"* means a request for credit slip, request for fill slip, or request for jackpot payout slip.

*"Slip"* means a credit slip, fill slip, or jackpot payout slip.

*"Slot machine"* means a mechanical or electronic gambling game device into which a player may deposit currency or other forms of cashless wagering and from which certain numbers of credits are awarded when a particular configuration of symbols or events is displayed on the machine.

[**ARC 8029B**, IAB 8/12/09, effective 9/16/09]

**491—12.2(99F) Accounting records.**

**12.2(1)** Each facility shall maintain complete and accurate records of all transactions pertaining to revenues and costs.

**12.2(2)** General accounting records shall be maintained on a double entry system of accounting with transactions recorded on an accrual basis.

**12.2(3)** Detailed, supporting, and subsidiary records shall be maintained. The records shall include, but are not limited to:

*a.* Statistical game records by gaming day to reflect drop and win amounts by table for each game.

*b.* Records of all investments, advances, loans, and receivable balances due the facility.

*c.* Records related to investments in property and equipment.

*d.* Records which identify the handle, payout, win amounts and percentages, theoretical win amounts and percentages; and differences between theoretical and actual win amounts and percentages for each slot machine on a week-to-date, month-to-date, and year-to-date basis.

*e.* Records of all loans and other amounts payable by the facility.

*f.* Records that identify the purchase, receipt, and disposal of gaming chips and tokens. All methods of disposal are subject to administrator approval.

**12.2(4)** Whenever forms or serial numbers are required to be accounted for or copies of forms are required to be compared for agreement and exceptions are noted, irreconcilable gambling revenue exceptions shall be reported immediately and in writing to the commission. All other exceptions shall be recorded in a log, accessible to commission representatives, maintained according to the requirements in 491—subrule 5.4(14).

[**ARC 8029B**, IAB 8/12/09, effective 9/16/09; **ARC 9018B**, IAB 8/25/10, effective 9/29/10]

**491—12.3(99F) Facility internal controls.**

**12.3(1)** Each facility shall submit a description of internal controls to the commission. The submission shall be made at least 90 days before gaming operations are to commence unless otherwise directed by the administrator. The submission shall include and provide for the following:

*a.* Administrative control that includes, but is not limited to, the plan of organization and the procedures and records that are concerned with the decision processes leading to management's levels of authorization of transactions.

*b.* Accounting control that includes the plan of organization and the procedures and records that are concerned with the safeguarding of assets and the reliability of financial records. The accounting control shall be designed to provide reasonable assurance that:

(1) Transactions are executed in accordance with management's general and specific authorization, which shall be consistent with the requirements of this chapter.

(2) Transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain accountability for assets.

(3) Access to assets is permitted only in accordance with management authorization, which shall be consistent with the requirements of this chapter.

(4) The recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

*c.* Competent personnel with integrity and an understanding of prescribed internal controls.

*d.* The segregation of incompatible functions so that no employee is in a position to perpetrate and conceal errors or irregularities in the normal course of the employee's duties.

*e.* Surveillance internal controls that include:

(1) Surveillance departments that shall be operated in an autonomous fashion, as separate and distinct entities from all other departments. A gaming facility's organizational structure shall place the director of the surveillance department directly under the span of control and authority of the operator's board of directors or appropriate parent company executive where practical. Under no circumstances will the director of surveillance report to or take direction from any authority at a level below the general manager.

(2) Administration of the network for the purpose of utilizing and transmitting live or recorded views or images of a video surveillance system for asset protection, loss prevention, investigation of tort/liability claims, game protection, employee oversight, resolution of patron disputes, corporate governance, management analysis, or other use consistent with a licensee's statutory responsibilities as approved by the administrator.

*f.* Game control, including but not limited to procedures for the storage, removal and record of implements of gambling. The gaming control shall be designed to document:

(1) Access to implements of gambling not in use.

(2) Method for removal of implements of gambling from an active gambling game.

(3) Procedures governing the record of total inventory of implements of gambling, documenting both additions to and removal from storage and active use.

**12.3(2)** A commission representative shall review each submission required by subrule 12.3(1) and determine whether it conforms to the requirements of Iowa Code chapter 99F and is consistent with the intent of this chapter and whether the internal controls submitted provide adequate and effective control for the operations of the facility. If the commission representative finds any insufficiencies, the insufficiencies shall be specified in writing to the facility, which shall make appropriate alterations. No facility shall commence gaming operations unless and until the internal controls are approved.

**12.3(3)** Each facility shall submit to the commission any changes to the internal controls previously approved at least 15 days before the changes are to become effective unless otherwise directed by a commission representative. The proposed changes shall be submitted to the commission and the changes may be approved or disapproved by the commission representative. No facility shall alter its internal controls until the changes are approved.

**12.3(4)** It shall be the affirmative responsibility and continuing duty of each occupational licensee to follow and comply with all internal controls.

[**ARC 8029B**, IAB 8/12/09, effective 9/16/09; **ARC 9018B**, IAB 8/25/10, effective 9/29/10]

**491—12.4(99F) Accounting controls within the cashier's cage.**

**12.4(1)** The assets for which the cashiers are responsible shall be maintained on an imprest basis. At the end of each shift, the cashiers assigned to the outgoing shift shall record on a cashier's count sheet the face value of each cage inventory item counted and the total of the opening and closing cage inventories and shall reconcile the total closing inventory with the total opening inventory.

**12.4(2)** At the conclusion of gaming activity each gaming day, a copy of the cashiers' count sheets and related documentation shall be forwarded to the accounting department for agreement of opening and closing inventories; agreement of amounts thereon to other forms, records, and documents required by this chapter; and the recording of all transactions.

**12.4(3)** Each facility shall place on file with the commission the names of all persons authorized to enter the cashier's cage, persons who possess the combination or keys to the locks securing the entrance to the cage, and persons who possess the ability to operate alarm systems.

[**ARC 8029B**, IAB 8/12/09, effective 9/16/09]

**491—12.5(99F) Gaming table container.** Each gaming table in a casino shall have attached to it a container.

**12.5(1)** Each container shall have:

*a.* A lock securing the contents of the container, the key to which shall be logged out by the count team.

*b.* A separate lock securing the container to the gaming table, the key to which shall be different from the key in paragraph 12.5(1)*"a"* and shall be logged out by the drop team, count team, or emergency drop personnel pursuant to subrule 12.13(1).

*c.* A slot opening through which currency, forms, records, and documents can be inserted.

*d.* A mechanical device that will close and lock the slot opening upon removal of the container from the gaming table.

**12.5(2)** Keys referred to in this rule shall be maintained and controlled in a secured area by the security department. The facility shall establish a sign-out procedure for all keys removed from the secured area.

[**ARC 8029B**, IAB 8/12/09, effective 9/16/09; **ARC 9018B**, IAB 8/25/10, effective 9/29/10]

**491—12.6(99F) Accepting currency at gaming tables.** Whenever currency is presented by a patron at a gaming table in exchange for gaming chips, the following procedures and requirements shall be observed:

**12.6(1)** The dealer or boxperson accepting the currency shall spread the currency on the top of the gaming table.

**12.6(2)** The dealer or boxperson shall verbalize the currency value in a tone of voice necessary to be heard by the patron and the casino supervisor assigned to the gaming table.

**12.6(3)** The dealer or boxperson shall take the currency from the top of the gaming table and place it into the container immediately after verbalizing the amount.

[**ARC 8029B**, IAB 8/12/09, effective 9/16/09]

**491—12.7(99F) Procedures for the movement of gaming chips to and from gaming tables.**

**12.7(1)** *Slips.* Each slip shall be sequentially numbered, shall be simultaneously printed in two or three copies, and shall discharge in the cashier's cage. Casino supervisors or casino clerks shall input data for each slip, and each prepared copy shall contain the following information:

*a.* The type of transfer.

*b.* The sequentially ordered slip number.

*c.* The date and time of preparation.

*d.* The total amount of each denomination.

*e.* The total amount of all denominations.

*f.* The game and table number.

**12.7(2)** *Distribution of chips to a gaming table.* On receipt of a slip in the cashier's cage for distribution of gaming chips to a table, the following procedures shall apply:

*a.* A cashier shall prepare the gaming chips and sign all copies of the slip attesting to the accuracy of the totals.

*b.* A security employee, or other employee authorized by the internal controls, shall compare the slip to the gaming chips prepared and sign all copies of the slip attesting to the accuracy. One copy of the slip shall remain with the cashier, if applicable, while two copies are transported with the gaming chips to the gaming table.

*c.* The dealer or boxperson assigned to the gaming table and the casino supervisor assigned to the gaming table shall sign all copies of the slip attesting to the accuracy of the fill.

*d.* Upon verification and placement of the gaming chips, the employee responsible for transporting the chips to the gaming table shall observe as the dealer or boxperson places one copy of the slip in the container of the gaming table. The employee shall then transport the remaining copy of the slip to the cashier's cage to be maintained and controlled by a cashier.

**12.7(3)** *Removal of chips from a gaming table.* On receipt of a slip in the cashier's cage for removal of gaming chips from a table, the following procedures shall apply:

*a.* A security employee, or other employee authorized by the internal controls, shall transfer all copies of the slip to the gaming table.

*b.* The dealer or boxperson assigned to the gaming table and the casino supervisor assigned to the gaming table shall prepare the removal and sign all copies of the slip attesting to the accuracy.

*c.* The security employee, or other employee authorized by internal controls, shall compare the slip to the gaming chips prepared and sign all copies of the slip attesting to the accuracy.

*d.* One copy of the slip shall be immediately placed in the container of the gaming table from which the gaming chips were removed.

*e.* The security employee, or other employee authorized by internal controls, shall transport the chips and the remaining copy of the slip to the cashier's cage.

*f.* The cashier shall compare this copy of the slip to the gaming chips received and shall sign the copy attesting to the accuracy. This copy of the slip shall be maintained and controlled by the cashier.

**12.7(4)** *Slip reconciliation.* At the end of each gaming day, copies of each of the slips maintained by the cashier's cage shall be forwarded to the accounting department for agreement with the copies of the slips obtained by the count team from the gaming table containers. Copies shall also be compared for agreement with the stored data.

**12.7(5)** *Stored data.* All information required by subrule 12.7(1) shall be stored in machine-readable format. The stored data shall not be susceptible to change or removal by any personnel after preparation of a slip.

**12.7(6)** *Manual process.* In the event the online monitoring and control system is unavailable, the facility staff shall perform transfers of gaming chips to and from gaming tables using manual requests and slips.

*a.* Requests shall be prepared by the casino supervisor or casino clerk. For the distribution of chips to the gaming table, the request shall be signed by the security employee, or other employee authorized by the internal controls, and shall be left with the cashier prior to the transfer of gaming chips and slips required by paragraph 12.7(6)*"b."* For the removal of chips from the gaming table, the request shall be signed at the gaming table by the security employee, or other employee authorized by the internal controls, prior to the transfer of gaming chips and slips required by paragraph 12.7(6)*"b"* and shall be placed in the container when the slip signed by the cashier has been returned to the gaming table.

*b.* Slips shall be prepared by cashiers in the cage using a three-part serially prenumbered form in a locked dispenser. The dispenser shall discharge two copies of the slip that have been filled out and signed by the cashier and shall retain the third copy in a continuous form in the dispenser. The same procedures shall be followed and the same set of signatures shall be utilized as required by subrules 12.7(2) and 12.7(3).

*c.* The copies remaining in the dispenser shall be removed each gaming day where a manual process had to be performed for gaming chip movements and to replace the stored data used pursuant to subrule 12.7(4). Access to the locked dispenser shall be maintained and controlled by independent

employees responsible for accounting for the unused slips, placing slips in the dispensers, and removing slips from the dispensers.

**12.7(7)** *Modifications.* Modifications to the procedures described in subrules 12.7(2), 12.7(3), and 12.7(4) may be substituted as internal controls, subject to the approval process of subrule 12.3(2), if the procedures comply with the intent of this rule.

**12.7(8)** *Voided transactions.* Whenever it becomes necessary to void a slip, all copies shall be clearly marked "void" and shall require the signature of the preparer. All void slips shall be maintained and controlled in conformity with subrules 12.7(2), 12.7(3), and 12.7(5).
[**ARC 8029B**, IAB 8/12/09, effective 9/16/09; **ARC 1876C**, IAB 2/18/15, effective 3/25/15]

**491—12.8(99F) Dropping or opening a gaming table.**

**12.8(1)** The table inventory slips shall be a two-part form, a "closer" and an "opener," containing the following:

*a.* The date and time of preparation.

*b.* The game and table number.

*c.* The total value of each denomination of gaming chips.

*d.* The total value of all denominations of gaming chips.

**12.8(2)** Whenever a gaming table is dropped or upon initial opening after a drop, the gaming chips at the gaming table shall be counted by the dealer or boxperson assigned to the gaming table while observed by a casino supervisor assigned to the gaming table.

**12.8(3)** Signatures attesting to the accuracy of the information recorded on the table inventory slips at the time of dropping or opening of the gaming tables shall be of the dealer or boxperson and the casino supervisor assigned to the gaming table who observed the dealer or boxperson count the contents of the table inventory.

**12.8(4)** Upon meeting the signature requirements described in subrule 12.8(3):

*a.* The closer, at dropping, shall be deposited in the container immediately prior to the closing of the table. The opener and the gaming chips remaining at the table shall be placed in a secured, locked area on the table.

*b.* The opener, at opening, shall be immediately deposited in the container.

**12.8(5)** Upon opening a gaming table, if the totals on the gaming inventory form vary from the opening count, the casino supervisor shall fill out an error notification slip. The casino supervisor and dealer or boxperson shall sign the error notification slip and deposit the slip in the container.
[**ARC 8029B**, IAB 8/12/09, effective 9/16/09]

**491—12.9(99F) Slot machine container and key.** Each slot machine shall have a container(s) that is housed in a locked compartment(s) separate from any other compartment of the slot machine.

**12.9(1)** Each container shall:

*a.* Have a lock securing the contents of the container, the key to which shall be logged out by the count team or employees authorized by the internal controls to address container malfunction issues.

*b.* Have a lock to each compartment securing the container to the slot machine, the key to which shall be different from the key in paragraph 12.9(1)*"a"* and shall be logged out by the drop team, employees authorized by the internal controls to address container malfunction issues, or employees transporting container(s) according to rule 491—12.13(99F).

*c.* Be identified at the time of removal by a number corresponding to the number of the slot machine from which the container is removed.

**12.9(2)** Keys referred to in subrule 12.9(1) shall be maintained and controlled by the security department in a secured area. The facility shall establish a log-out procedure for all keys removed from the secured area.

**12.9(3)** Other keys to each slot machine or any device connected thereto which may affect the operation of the slot machine shall be maintained in a secure place and controlled by the slot department.
[**ARC 8029B**, IAB 8/12/09, effective 9/16/09; **ARC 9018B**, IAB 8/25/10, effective 9/29/10]

**491—12.10(99F) Procedures for hopper fills and attendant payouts.**

**12.10(1)** *Slips.* Each slip shall be sequentially numbered, and two copies shall be simultaneously printed. An employee authorized by the internal controls shall input data for each slip, and each prepared copy shall contain the following information:

*a.* The type of transaction.

*b.* The sequentially ordered slip number.

*c.* The date and time of preparation.

*d.* For attendant payouts, the amount to be paid and the cage location from which the amount is to be paid.

*e.* For jackpots, the winning combination to be paid.

*f.* For hopper fills, the denomination and amount of currency to be distributed.

**12.10(2)** *Hopper fills.* A slip shall be prepared by a person authorized by the internal controls whenever a slot machine fill is required. On receipt or preparation of a slip in the cashier's cage, the following procedures shall apply:

*a.* The cashier, upon providing the coins to an employee authorized by the internal controls, shall sign all copies of the slip attesting to the accuracy of the amount provided and the information contained on the slip.

*b.* The employee authorized by the internal controls, upon receipt of the coins, shall sign all copies of the slip and transport the coins and one copy of the slip to the slot machine. The remaining copy shall remain with the cashier.

*c.* An additional employee authorized by the internal controls, other than the employees listed in paragraphs 12.10(2)*"a"* and 12.10(2)*"b,"* shall observe the deposit of the coins into the slot machine hopper and the closing and locking of the slot machine door. This employee shall then sign the copy of the slip at the slot machine.

*d.* Upon completion of the fill, the copy of the slip at the slot machine shall be deposited in a secure area controlled by the accounting department.

**12.10(3)** *Attendant payouts.* Whenever a patron wins a jackpot or has accumulated credits not totally and automatically paid directly from a slot machine, a slip shall be prepared by a person authorized by the internal controls. On receipt or preparation of a slip for an attendant payout in the cashier's cage, the following procedures shall apply:

*a.* The cashier, upon providing the payment to an employee authorized by the internal controls, shall sign all copies of the slip attesting to the accuracy of the amount provided and the information contained on the slip.

*b.* The employee authorized by the internal controls, upon receipt of the payment, shall sign all copies of the slip and transport the payment and one copy of the slip to the slot machine. The remaining copy of the slip shall remain with the cashier.

*c.* An additional employee authorized by the internal controls, other than the employees listed in paragraphs 12.10(3)*"a"* and 12.10(3)*"b,"* shall observe the payment of the patron. For jackpots, the employee shall verify the symbols on the slot machine. For jackpots in excess of $10,000, the employee shall be a supervisor or higher authority. In either case, the employee shall then sign the copy of the slip at the slot machine.

*d.* Upon completion of the payout, the copy of the slip at the slot machine shall be deposited in a secure area controlled by the accounting department.

*e.* For a slot machine jackpot in excess of $100,000, a facility shall notify a commission representative in accordance with the immediate notification process established by 491—subrule 5.4(5).

**12.10(4)** *Overrides.* System overrides shall be authorized by a slot supervisor or an employee authorized by the internal controls. This employee shall not perform the duties and signature requirements of subrules 12.10(2) and 12.10(3) in any transaction where the employee authorizes a system override. In addition to the signature requirements of subrules 12.10(2) and 12.10(3), the signature of the authorizing employee shall be on all copies of the slip.

**12.10(5)** *Slip reconciliation.* At the end of each gaming day, copies of the slip retained by the cashier's cage shall be forwarded to the accounting department for agreement with the copies of the slips deposited in the area controlled by the accounting department and for recording on the slot win sheet. Copies shall also be compared for agreement with the stored data.

**12.10(6)** *Stored data.* All information required by subrule 12.10(1) shall be stored in the online monitoring and control system in machine-readable format. The stored data shall not be susceptible to change or removal by any personnel after preparation of the slip.

**12.10(7)** *Modifications.* Modifications to the procedures described in subrules 12.10(2) to 12.10(5) may be substituted as internal controls, subject to the approval process of subrule 12.3(2), if the procedures comply with the intent of this rule.

**12.10(8)** *Manual process.* In the event the online monitoring and control system is unavailable, the facility staff shall perform hopper fills and manual payouts using manual slips. Manual slips shall be three-part serially prenumbered forms. For use of manual slips, the following shall apply:

*a.* Slips shall be placed in a locked dispenser. Once prepared, the dispenser shall discharge two copies of the slip, while retaining the third copy in a continuous form. They shall be prepared in the cashier's cage at the request of an employee authorized by the internal controls. Procedures for the two dispensed copies shall follow subrules 12.10(2) and 12.10(3).

*b.* The copies remaining in the dispenser shall be removed each gaming day where a manual process had to be performed for hopper fills or manual payouts and to replace the stored data used pursuant to subrule 12.10(5). Access to the locked dispenser shall be maintained and controlled by independent employees responsible for accounting for the unused slips, placing slips in the dispensers, and removing slips from the dispensers.

**12.10(9)** *Voided transactions.* Whenever it becomes necessary to void a slip, all the copies shall be clearly marked "void" and shall require the signature of the preparer. All void slips shall be maintained and controlled in conformity with subrules 12.10(2) to 12.10(5).

[**ARC 8029B**, IAB 8/12/09, effective 9/16/09]

**491—12.11(99F) Attendant and ticket payout accounting.**

**12.11(1)** *Attendant payouts.* Under this rule, unless otherwise subject to Iowa Code chapter 556, jackpots and accumulated credits paid by a slip that are unpaid or unclaimed at the close of a facility's fiscal year shall be disallowed as a deduction from gross receipts for the calculation of adjusted gross revenue for the wagering tax. A facility shall make this adjustment to revenue within 90 days of the close of the facility's fiscal year.

**12.11(2)** *Ticket payouts.* Payouts dispensed by a ticket issued directly from a gaming device must have a minimum payout redemption period of 90 days from the date of issuance.

*a.* Notwithstanding 491—subrule 5.4(14), an issued ticket redeemed for cash or deposited in a slot machine for machine credits shall be retained for a minimum of 90 days from the redemption date. The ticket may be subsequently destroyed if record of the transaction is retrievable by other means.

*b.* At the close of the facility's fiscal year, tickets issued in previous fiscal years and tickets with expired redemption periods that remain outstanding and unredeemed are subject to the requirements of subrule 12.11(1).

[**ARC 8029B**, IAB 8/12/09, effective 9/16/09]

**491—12.12(99F) Computer recording requirements and monitoring of slot machines.**

**12.12(1)** A facility shall have an online monitoring and control system connected to each slot machine in the casino to record and monitor the slot machine's activities.

**12.12(2)** The online monitoring and control system shall be designed and operated to automatically perform the functions relating to slot machine meters in the casino as follows:

*a.* Record the number and total of currency placed in the slot machine for the purpose of activating play.

*b.* Record the number and total of currency in the container(s).

*c.* Record the number and total of currency to be paid manually as the result of a jackpot.

*d.* Record the electronic meter information required by 491—paragraph 11.10(2)*"c."*

**12.12(3)** The online monitoring and control system shall monitor and detect machine exception codes and error messages as required by 491—paragraph 11.10(2)*"d."*

**12.12(4)** The online monitoring and control system shall store in machine-readable form all information required by subrules 12.12(2) and 12.12(3), and the stored data shall not be susceptible to change or removal.

**12.12(5)** The licensee shall maintain a current log, accessible to commission representatives, of all changes and updates made to the online monitoring and control system that affect any part of the system's message digest. These changes and updates shall be approved as required by 491—subrule 11.4(1).
[**ARC 8029B**, IAB 8/12/09, effective 9/16/09; **ARC 9018B**, IAB 8/25/10, effective 9/29/10]

**491—12.13(99F) Transportation of containers.**

**12.13(1)** Each facility shall place on file with a commission representative a schedule setting forth the specific times at which the containers will be brought to or removed from the gaming tables or slot machines for transport to the count room. An emergency drop that deviates from the schedule shall be permissible for instances of full containers or container malfunctions provided that representatives from the security department and another department conduct the drop and the process is recorded by the surveillance department from the time of machine entry until the container is secured in the count room or other approved secure location. The commission representative shall be notified after each occurrence.

**12.13(2)** A security employee shall accompany and observe the drop team. For table games, all containers removed from the gaming tables shall be transported by a security employee and a table game supervisor.

**12.13(3)** All containers removed from slot machine cabinets shall:

*a.* Be removed by a drop team wearing uniforms or outer garments as required by subrule 12.15(2).

*b.* Be replaced immediately with an empty container that shall be secured in the cabinet.

**12.13(4)** All containers removed shall be transported directly to, and secured in, the count room or in a secure area within the facility until the containers can be transferred to the count room.

**12.13(5)** Empty containers not secured to the gaming tables or slot machine compartment shall be stored in the count room or an approved secured location. Empty containers may be removed from the count room or secured area for repair or destruction provided the surveillance department is notified and the inside of the container is held up to the full view of a closed circuit television camera prior to removal.
[**ARC 8029B**, IAB 8/12/09, effective 9/16/09; **ARC 9018B**, IAB 8/25/10, effective 9/29/10]

**491—12.14(99F) Count room—characteristics.**

**12.14(1)** Each facility shall have a count room that shall:

*a.* Be designed and constructed to provide maximum security for materials housed within and the activities conducted therein.

*b.* Have an alarm device connected to the entrance of the room that causes a signaling to the monitors of the closed circuit surveillance system and to the commission representative's office whenever the door to the room is opened.

*c.* Have, if currency is counted within the count room, a count table constructed of clear glass or similar material for the emptying, counting, and recording of the contents of containers.

**12.14(2)** All room keys shall be maintained and controlled in a secured area by the security department. The facility shall establish a sign-out procedure for all keys removed from the secured area.
[**ARC 8029B**, IAB 8/12/09, effective 9/16/09]

**491—12.15(99F) Opening, counting, and recording contents of containers in the count room.**

**12.15(1)** Each facility shall file with a commission representative the specific times and procedures for opening, counting, and recording the contents of containers.

**12.15(2)** All persons present in the count room during the counting process, unless expressly exempted by a commission representative, shall wear a full-length, one-piece, pocketless outer garment with openings only for the arms, feet, and neck that extends over any other garments and covers the tops of any footwear.

**12.15(3)** Persons shall not:

*a.* Carry a pocketbook or other container into the count room, unless it is transparent.

*b.* Remove their hands from or return them to a position on or above the count table unless the backs and palms of the hands are first held straight out and exposed to the view of other members of the count team and the closed circuit surveillance camera.

**12.15(4)** Requirements for conducting the count.

*a.* Immediately prior to the commencement of the count, the count team shall notify the person assigned to the surveillance room that the count is about to begin, after which the surveillance department shall make a video recording with the time and date inserted thereon of the entire counting process.

*b.* Prior to counting the contents of the containers, the doors to the count room shall be locked and no person shall be permitted to enter or leave the count room, except during an emergency or on scheduled breaks, until the entire counting, recording, and verification process is completed. During this time, a commission representative shall have unrestricted access.

*c.* When a container is placed on a count table or coin scale, the count team shall ensure that the table or machine number associated with a container is identified to the surveillance department.

*d.* A machine may be used to automatically count the contents of a container.

*e.* The contents of each container shall be emptied on the count table or coin scale and either manually counted separately on the count table or counted in an approved currency counting machine located in a conspicuous location on, near, or adjacent to the count table or coin scale. These procedures shall at all times be conducted in full view of the closed circuit surveillance cameras located in the count room.

*f.* Immediately after the contents of a container are emptied onto the count table or coin scale, the inside of the container shall be held up to the full view of a closed circuit surveillance camera and shall be shown to at least one other count team member to ensure all contents of the container have been removed and, if applicable, the container shall then be locked. By the end of the count process, empty containers shall be secured in a container cart or an area separate from uncounted containers.

*g.* If the original count is being performed by a machine that automatically counts and records the amounts of the contents of each individual container, an aggregate count may be permitted in substitution of a second container count.

*h.* For manually counted containers:

(1) The count team members shall place the contents of each container into separate stacks on the count table by denomination of currency and by type of form, record, or document, except that a machine may be used to automatically sort currency by denomination.

(2) Each denomination of currency shall be counted separately by one count team member who shall group currency of the same denomination on the count table in full view of a closed circuit surveillance camera. The currency shall then be counted by a second count team member who is unaware of the result of the original count. The second count team member, after completing this count, shall confirm the accuracy of the total, either orally or in writing, with that reached by the first count team member.

**12.15(5)** Table games.

*a.* As the contents of each container from a table game are counted, one count team member shall record the following information by game, table number, date, and time on a master game report or supporting documents:

(1) The amount of each denomination of currency.

(2) The amount of all denominations of currency.

(3) The total amounts of currency.

(4) The total amount of gaming chips.

(5) The amount of the opener.

(6) The amount of the closer.

(7) The serial number and amount of each fill.

(8) The amount of all fills.

(9) The serial number and amount of each credit.

(10) The amount of all credits.

(11) The win or loss.

*b.* After the contents of each container are counted and recorded, one member of the count team shall record by game on the master game report the total amounts of currency, table inventory slips, fills, credits, and win or loss together with any other required information.

*c.* Notwithstanding the requirements of paragraphs 12.15(5)*"a"* and *"b,"* if the internal controls allow for the recording of fills, credits, and table inventory slips on the master game report or supporting documents prior to commencement of the count, a count team member shall compare for agreement the totals of the amounts recorded thereon to the fills, credits, and table inventory slips removed from the containers.

*d.* After preparation of the master game report, each count team member shall sign the report attesting to the accuracy of the information contained thereon.

*e.* Currency and gaming chips shall not be removed from the count room after commencement of the count until the total has been verified and accepted by a cashier. At the conclusion of the count, all currency and gaming chips removed from the containers shall be counted by a cashier in the presence of a count team member prior to having access to the information recorded on the master game report. The cashier shall attest to the accuracy of the amount received from the gaming tables by signature on the master game report, after which a count team member shall sign the master game report evidencing the fact that both the cashier and count team have agreed on the total counted. The verified funds shall then remain in the custody of the cashier.

*f.* After the master game report has been signed, the requests, slips, and table inventory slips removed from the containers shall be attached. The report, with attachments, shall then be transported directly to the accounting department or shall be maintained in locked storage until the master game report can be delivered to the accounting department. Upon meeting the signature requirements described in paragraph 12.15(5)*"e,"* the report shall not be available to any cashier's cage personnel.

*g.* Unless the internal controls provide for the forwarding of the original requests and original slips from the cashier's cage directly to the accounting department, the original requests and original slips recorded or to be recorded on the master game report shall be transported from the count room directly to the accounting department.

*h.* The originals and copies of the master game report, requests, slips, table inventory slips, and the test receipts from the currency counting equipment shall, on a gaming day basis in the accounting department, be:

(1) Compared for agreement with each other on a test basis if the originals are received from the count room by persons with no recording responsibilities and, if applicable, to copies remaining in the dispenser or stored data.

(2) Reviewed for the appropriate number and propriety of signatures on a test basis.

(3) Accounted for by series numbers, if applicable.

(4) Verified for proper calculation, summarization, and recording.

(5) Recorded.

(6) Maintained and controlled by the accounting department as a permanent accounting record.

**12.15(6)** Slot machines.

*a.* Currency shall not be removed from the count room after commencement of the count until the currency total has been verified and accepted by a cashier. At the conclusion of the count, all currency removed from the containers shall be counted by a cashier in the presence of a count team member prior to the recording of information on the slot drop sheet. The cashier shall attest to the accuracy of the amount of currency received from the slot machines by signature on the slot drop sheet, after which a count team member shall sign the slot drop sheet evidencing the fact that both the cashier and count team have agreed on the total amount of currency counted. The verified funds shall remain in the custody of the cashier.

*b.* The slot drop sheet and supporting documents shall be transported directly to the accounting department and shall not be available, except for signing, to any cashier's cage or slot personnel or shall be maintained in locked storage until they can be delivered to the accounting department.

*c.* The preparation of the slot drop sheet shall be completed by accounting employees as follows:

(1) Compare the amount of currency counted and the drop meter reading for agreement for each slot machine.

(2) Record the hopper fills for each slot machine.

(3) Record for each slot machine the payouts and compare for agreement the payouts to the manual jackpot meter reading recorded on the slot meter sheet.

(4) Calculate and record the win or loss for each slot machine.

(5) Explain and report for corrections of apparent meter malfunctions to the slot department all significant differences between meter readings and amounts recorded.

(6) Calculate statistics by slot machine.

*d.* The slot drop sheet, the slot meter sheet, payouts, and hopper fills shall be:

(1) Compared for agreement with each other and to copies or stored data on a test basis.

(2) Reviewed for the appropriate number and propriety of signatures on a test basis.

(3) Accounted for by series numbers, if applicable.

(4) Verified for proper calculation, summarization, and recording.

(5) Recorded.

(6) Maintained and controlled by accounting department employees.

[**ARC 8029B**, IAB 8/12/09, effective 9/16/09; **ARC 9018B**, IAB 8/25/10, effective 9/29/10]

These rules are intended to implement Iowa Code chapter 99F.

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# CHAPTER 4
# EMPLOYERS
[Prior to 6/9/04, see 581—Ch 21]

**495—4.1(97B) Covered employers.**

**4.1(1)** Definition. All public employers in the state of Iowa, its cities, counties, townships, agencies, political subdivisions, instrumentalities and public schools are required to participate in IPERS. For the purposes of these rules, the following definitions also apply:

*a.* *"Political subdivision"* means a geographic area or territorial division of the state which has responsibility for certain governmental functions. Political subdivisions are characterized by public election of officers and taxing powers. The following examples are representative: cities, municipalities, counties, townships, schools and school districts, drainage and levee districts, and utilities.

*b.* *"Instrumentality of the state or a political subdivision"* means an independent entity that is organized to carry on some specific function of government. Public instrumentalities are created by some form of governmental body, including federal and state statutes and regulations, and are characterized by being under the control of a governmental body. Such control may include final budgetary authorization, general policy development, appointment of a board by a governmental body, and allocation of funds.

*c.* *"Public agency"* means state agencies and agencies of political subdivisions. Representative examples include an executive board, commission, bureau, division, office, or department of the state or a political subdivision.

*d.* Effective July 1, 1994, the definition of employer includes an area agency on aging that does not offer an alternative plan to all of its employees that is qualified under the federal Internal Revenue Code.

Covered employers include, but are not limited to: the state of Iowa and its administrative agencies; counties, including their hospitals and county homes; cities, including their hospitals, park boards and commissions; recreation commissions; townships; public libraries; cemetery associations; municipal utilities including waterworks, gasworks, electric light and power; school districts including their lunch and activity programs; state colleges and universities; and state hospitals and institutions.

An entity not already reporting to IPERS which meets the conditions for becoming an IPERS covered employer shall immediately contact IPERS to provide notice which includes the name and address of the entity and other information required by IPERS. If, after review of this information, IPERS determines that the entity should be enrolled as a covered employer, IPERS will notify the entity and provide an IPERS account number for the entity to use when submitting information. IPERS shall not be required to provide benefits otherwise available under Iowa Code chapter 97B for periods of service prior to the effective date for which IPERS actually approves the entity for coverage, unless the employer agrees to pay the full actuarial cost of providing such benefits.

An employer may request a revised beginning date for its status as a covered employer. The employer must submit acceptable proof to IPERS that its status as a covered employer began earlier than the date previously provided. In such case, the employer shall provide IPERS coverage retroactively to all employees providing services to that employer on or after the revised beginning date and shall pay all actuarial costs.

**4.1(2)** Name change. Any employer which has a change of name, address, title of the employer, its reporting official or any other identifying information shall immediately give notice in writing to IPERS. The notice shall provide IPERS with the following information:

*a.* Former name;

*b.* Former address;

*c.* IPERS account number;

*d.* New name, address, and telephone number of the employer;

*e.* Reason for the change if other than a change of reporting official; and

*f.* Effective date of the change.

**4.1(3)** Termination. Any employer which terminates or is dissolved for any reason shall provide IPERS with the following:

*a.* Complete name and address of the dissolved entity;
*b.* Assigned IPERS account number;
*c.* Last date on which wages were paid;
*d.* Date on which the entity dissolved;
*e.* Reason for the dissolution;
*f.* Whether or not the entity expects to pay wages in the future;
*g.* Whether the entity is being absorbed by another covered employer;
*h.* Name and address of absorbing employer if applicable; and
*i.* Name and address of employer that will retain the records of the dissolved entity.

**4.1(4)** Reports of dissolved or absorbed employers. An employer that has been dissolved or entirely absorbed by another employer is required to file a monthly report with IPERS through the effective date on which it was dissolved or absorbed. Any wages paid after this date are reported under the account number assigned to the new or successor employer, if any.

**4.1(5)** IPERS account number. Each employer is assigned an IPERS account number. This number should be used on all correspondence and reporting forms directed to IPERS.

**4.1(6)** For patient advocates employed under Iowa Code section 229.19, the county or counties for which services are performed shall be treated as the covered employer(s) of such individuals, and each such employer is responsible for forwarding reports and for withholding and forwarding the applicable IPERS contributions on wages paid by each employer.

**495—4.2(97B) Records to be kept by the employer.**

**4.2(1)** General. Each employer shall maintain records to show the information hereinafter indicated. Records shall be kept in the form and manner prescribed by IPERS. Records shall be open to inspection and may be copied by IPERS and its authorized representatives at any reasonable time.

**4.2(2)** Records shall show with respect to each employee:

*a.* Employee's name, address, gender, and social security account number, and other demographic information that may be required;

*b.* Each date the employee was paid wages or other wage equivalent (e.g., room, board);

*c.* Total amount of wages paid on each date including noncash wage equivalents;

*d.* Total amount of wages including wage equivalents on which IPERS contributions are payable;

*e.* Amount withheld from wages or wage equivalents for the employee's share of IPERS contributions; and

*f.* Effective January 1, 1995, records will show, with respect to each employee, member contributions picked up by the employer.

**4.2(3)** Reports.

*a.* Each employer shall make reports as IPERS may require and shall comply with the instructions provided by IPERS for the reports.

*b.* Effective July 1, 1991, employers must report all terminating employees to IPERS within seven working days following the employee's termination date. This report shall contain the employee's last-known mailing address and such other information as IPERS might require.

*c.* Effective December 31, 2004, and annually thereafter, employers whose job classes include correctional officers, correctional supervisors, and others whose primary purpose is, through ongoing direct inmate contact, to enforce and maintain discipline, safety and security within a correctional facility shall submit to IPERS each calendar year a list of jobs that qualify for protection occupation class coverage. This report shall also contain any changes in the designation of jobs as qualifying or not qualifying for protection occupation class coverage and effective dates of changes. IPERS' sole responsibility with respect to protection occupation status determinations is to ascertain whether IPERS' records correctly reflect service credit and contributions that are in accordance with the employer's designation of a position as being within a protection occupation class.

**4.2(4)** Fees. IPERS may assess to the employer a fee for administrative costs as described in subrule 4.3(6).

[**ARC 8601B**, IAB 3/10/10, effective 4/14/10]

**495—4.3(97B) Wage reporting and payment of contributions by employers.**

**4.3(1)** *Payment of contributions.* For wages paid on or after July 1, 2008, all covered employers are required to pay contributions on a monthly basis. Upon enrollment as an IPERS covered employer, the employer shall receive the appropriate forms and instructions from IPERS to submit contributions. IPERS will provide monthly statements to each employer.

IPERS accepts the payment of contributions through electronic funds transfer. Payments utilizing the electronic funds transfer system shall be made according to the procedure described in subrule 4.3(3).

IPERS accepts the payment of contributions using checks and remittance advice forms. Employers filing monthly employer remittance advice forms on paper for two or more employers shall attach the checks to each remittance form. Checks shall be made payable to the Iowa Public Employees' Retirement System and mailed with the employer remittance advice form to IPERS, P.O. Box 9117, Des Moines, Iowa 50306-9117. Effective August 1, 2008, such payments and reports shall be subject to a fee as described in subrule 4.3(6).

**4.3(2)** *Wage reports.* For wages paid on or after July 1, 2008, all IPERS covered employers are required to file wage reports on a monthly basis. IPERS will provide the forms and instructions for wage reporting to employers. Each wage report must include the required information for all employees who earned reportable wages or wage equivalents under IPERS. The reports must be received by IPERS on or before the fifteenth day of the month following the month in which the wages were paid. If the fifteenth day falls on a weekend or holiday, the wage report is due on the next regularly scheduled business day.

Effective August 1, 2008, IPERS shall accept wage reports electronically via the IPERS' employer self service Web application, on compact discs, or as a paper report. However, for those employers submitting reports on compact discs or on paper, IPERS shall charge a fee as described in subrule 4.3(6).

**4.3(3)** *Deadlines for payment of contributions.*

*a.* Contributions must be paid monthly and must be received by IPERS on or before the fifteenth day of the month following the month in which wages were paid. If the fifteenth day falls on a weekend or holiday, the contribution is due on the next regularly scheduled business day.

*b.* For employers paying contributions by electronic funds transfer, wage reports and contributions may be submitted at the same time.

**4.3(4)** *Request for time extension.* A request for an extension of time to file a wage report or pay a contribution may be granted by IPERS for good cause if a request is made before the due date, but no extension shall exceed 15 days beyond the due date. If an employer that has been granted an extension fails to submit the wage report or pay the contribution on or before the end of the extension period, the applicable interest and fees shall be charged and paid from the original due date as if no extension had been granted. If the fifteenth day falls on a weekend or holiday, the contribution or report is due on the next regularly scheduled business day.

To establish good cause for an extension of time to file a wage report or pay contributions, the employer must show that the delinquency was not due to mere negligence, carelessness or inattention. The employer must affirmatively show that it did not file the report or timely pay because of some occurrence beyond the control of the employer.

**4.3(5)** *No reportable wages.* When an employer has no reportable wages during the applicable reporting period, the wage reporting document shall be filed according to subrule 4.3(2). Even if there are no reportable wages, the employer's account is considered delinquent for the reporting period and is subject to a fee until the report is filed. However, if the employer has notified IPERS on or before the due date that there are no wages to report, IPERS will adjust the due date, and no fee will be charged.

**4.3(6)** *Fees for noncompliance.* IPERS is authorized to impose reasonable fees on employers that do not file wage reports through the IPERS' employer self service Web application as described in subrule 4.3(2), that fail to timely file accurate wage reports, or that fail to pay contributions when due pursuant to subrule 4.3(3).

For submissions filed on or after August 1, 2008, IPERS shall charge employers a processing fee of $20 plus 25 cents per employee for late submissions and manual processing of wage reports by IPERS. Employers that are late or that do not use IPERS' employer self service Web application may be charged both fees. In addition, if a fee for noncompliance is not paid by the fifteenth day of the month after the fee

is assessed, the fee will accrue interest daily at the interest rate provided in Iowa Code section 97B.70. No fee will be charged on late contributions received as a result of a wage adjustment, but interest on the amount due will be charged until paid in full.

If the due date for a fee falls on a weekend or holiday, the due date shall be the next regularly scheduled business day.

**4.3(7)** *Erroneously reported wages for employees not covered under IPERS.* Employers that erroneously report wages for employees who are not eligible for coverage under IPERS may file an IPERS wage reporting adjustment form. IPERS shall return a warrant or issue a credit for both the employer and employee contributions made in error. The employer is responsible for returning the employees' share and for filing corrected federal and state wage reporting forms. Adjustments in such cases will be reported on the employer's monthly statement. Under no circumstance shall the employer adjust these wages by underreporting wages on a future periodic wage reporting document. Wages shall never be reported as a negative amount. An employer that completes the employer portion of an employee's request for a refund on an IPERS refund application form will not be permitted to file a periodic wage reporting adjustment form for that employee for the same time period. No fee will be assessed to employers that correct information as provided under this subrule.

**4.3(8)** *Contributions paid on wages in excess of the annual covered wage maximum.* For wages paid on or after July 1, 2008, whenever IPERS determines that an employee's wages will exceed the annual maximum established under Section 401(a)(17)(A) and the cost-of-living adjustments to that maximum permitted under Section 401(a)(17)(B) of the Internal Revenue Code during a given month, IPERS shall notify the applicable employer and shall return the related excess contributions. IPERS will detail on the monthly report those employees for whom wages were reported in excess of the covered wage ceiling. The employer is responsible for returning the employee's share of excess contributions and making the applicable tax corrections.

**4.3(9)** *Termination within less than six months of the date of employment.* If an employee hired for permanent employment terminates within six months of the date of employment, the employer may file an IPERS form for reporting adjustments to receive a warrant or a credit, as elected by the employer, for both the employer's and employee's portions of the contributions. It is the responsibility of the employer to return the employee's share. "Termination within less than six months of the date of employment" means employment is terminated prior to the day before the employee's six-month anniversary date. For example, an employee hired on February 10 whose last day is August 8 would be treated as having resigned within less than six months. An employee hired on February 10 whose last day is August 9 (the day before the six-month anniversary date, August 10) would be treated as having worked six months and would be eligible for a refund.

**4.3(10)** *Reinstatement following an employment dispute.* Employees who are reinstated following an employment dispute may restore membership service credit as described in 495—9.5(97B).

[**ARC 9397B**, IAB 2/23/11, effective 3/30/11]

**495—4.4(97B) Accrual of interest and application of employer payments.** Interest or charges as provided under Iowa Code section 97B.9 shall accrue on all employer payments not received by IPERS by the due date, except that interest or charges may be waived by IPERS if the employer requests an extension of time under subrule 4.3(4) prior to the due date. Effective August 1, 2008, employers that remit late contributions shall be charged a minimum of $20 or interest at the rate provided in Iowa Code section 97B.70, whichever is greater. No fee will be charged on late contributions received as a result of a wage adjustment, but interest on the amount due will be charged until paid in full. Payments received from employers having unpaid account balances shall first be applied to the oldest outstanding balance.

**495—4.5(97B) Credit memos voided.** Rescinded IAB 3/26/08, effective 4/30/08.

**495—4.6(97B) Contribution rates.** The following contribution rate schedule, payable on the covered wage of the member, is determined by the position or classification and the occupation class code of the member.

**4.6(1)** Contribution rates for regular class members.

*a.* The following contribution rates were established by the Iowa legislature for all regular class members for the indicated periods:

| | Effective July 1, 2007 | Effective July 1, 2008 | Effective July 1, 2009 | Effective July 1, 2010 | Effective July 1, 2011 |
|---|---|---|---|---|---|
| Combined rate | 9.95% | 10.45% | 10.95% | 11.45% | 13.45% |
| Employer | 6.05% | 6.35% | 6.65% | 6.95% | 8.07% |
| Employee | 3.90% | 4.10% | 4.30% | 4.50% | 5.38% |

*b.* Effective July 1, 2012, and every year thereafter, the contribution rates for regular members shall be publicly declared by IPERS staff no later than the preceding December as determined by the annual valuation of the preceding fiscal year. The public declaration of contribution rates will be followed by rule making that will include a notice and comment period and that will become effective July 1 of the next fiscal year. Contribution rates for regular members are as follows.

| | Effective July 1, 2012 | Effective July 1, 2013 | Effective July 1, 2014 | Effective July 1, 2015 |
|---|---|---|---|---|
| Combined rate | 14.45% | 14.88% | 14.88% | 14.88% |
| Employer | 8.67% | 8.93% | 8.93% | 8.93% |
| Employee | 5.78% | 5.95% | 5.95% | 5.95% |

**4.6(2)** Contribution rates for sheriffs and deputy sheriffs are as follows.

| | Effective July 1, 2011 | Effective July 1, 2012 | Effective July 1, 2013 | Effective July 1, 2014 | Effective July 1, 2015 |
|---|---|---|---|---|---|
| Combined rate | 19.66% | 19.80% | 19.76% | 19.76% | 19.76% |
| Employer | 9.83% | 9.90% | 9.88% | 9.88% | 9.88% |
| Employee | 9.83% | 9.90% | 9.88% | 9.88% | 9.88% |

**4.6(3)** Contribution rates for protection occupations are as follows.

| | Effective July 1, 2011 | Effective July 1, 2012 | Effective July 1, 2013 | Effective July 1, 2014 | Effective July 1, 2015 |
|---|---|---|---|---|---|
| Combined rate | 16.62% | 17.11% | 16.90% | 16.90% | 16.40% |
| Employer | 9.97% | 10.27% | 10.14% | 10.14% | 9.84% |
| Employee | 6.65% | 6.84% | 6.76% | 6.76% | 6.56% |

**4.6(4)** Members employed in a "protection occupation" shall include:

*a.* Conservation peace officers. Effective July 1, 2002, all conservation peace officers, state and county, as described in Iowa Code sections 350.5 and 456A.13.

*b.* Effective July 1, 1994, a marshal in a city not covered under Iowa Code chapter 400 or a firefighter or police officer of a city not participating under Iowa Code chapter 410 or 411. (See employee classifications in rule 495—5.1(97B).) Effective January 1, 1995, part-time police officers shall be included.

*c.* Correctional officers as provided for in Iowa Code section 97B.49B. Employees who, prior to December 22, 1989, were in a "correctional officer" position but whose position is found to no longer meet this definition on or after that date shall retain coverage, but only for as long as the employee is in that position or another "correctional officer" position that meets this definition. Movement to a position that does not meet this definition shall cancel "protection occupation" coverage.

*d.* Airport firefighters employed by the military division of the department of public defense (airport firefighters). Effective July 1, 2004, airport firefighters become part of and shall make the same contributions as the other members covered under Iowa Code section 97B.49B. From July 1,

1994, through June 30, 2004, airport firefighters were grouped with and made the same contributions as sheriffs and deputy sheriffs. From July 1, 1988, through June 30, 1994, airport firefighters were grouped with and made the same contributions as the other members covered under Iowa Code section 97B.49B. From July 1, 1986, through June 30, 1988, airport firefighters were a separate protection occupation group and made contributions at a rate calculated for members of that group. Prior to July 1, 1986, airport firefighters were grouped with regular members and made the same contributions as regular members.

Notwithstanding the foregoing, all airport firefighter service prior to July 1, 2004, shall be coded by IPERS as sheriff/deputy sheriff/airport firefighter service, and all airport firefighter service after June 30, 2004, shall be coded by IPERS as protection occupation service. This coding, however, shall not supersede provisions of this title that require members to make contributions at higher rates in order to receive certain benefits, such as in the hybrid formula pursuant to 495—12.4(97B).

*e.* Airport safety officers employed under Iowa Code chapter 400 by an airport commission in a city with a population of 100,000 or more, and employees covered by the Iowa Code chapter 8A merit system whose primary duties are providing airport security and who carry or are licensed to carry firearms while performing those duties.

*f.* Effective July 1, 1990, an employee of the state department of transportation who is designated as a "peace officer" by resolution under Iowa Code section 321.477.

*g.* Effective July 1, 1992, a fire prevention inspector peace officer employed by the department of public safety. Effective July 1, 1994, a fire prevention inspector peace officer employed before that date who does not elect coverage under Iowa Code chapter 97A in lieu of IPERS.

*h.* Effective July 1, 1994, through June 30, 1998, a parole officer III with a judicial district department of correctional services.

*i.* Effective July 1, 1994, through June 30, 1998, a probation officer III with a judicial district department of correctional services.

*j.* Effective July 1, 2008, county jailers and detention officers working as jailers.

*k.* Effective July 1, 2008, National Guard installation security officers.

*l.* Effective July 1, 2008, emergency medical care providers.

*m.* Effective July 1, 2008, special investigators who are employed by county attorneys.

*n.* Effective July 1, 2014, an employee of the insurance division of the department of commerce who as a condition of employment is required to be certified by the Iowa law enforcement academy and who is required to perform the duties of a peace officer as provided in Iowa Code section 507E.8.

*o.* Effective July 1, 2014, an employee of a judicial district department of correctional services whose condition of employment requires the employee to be certified by the Iowa law enforcement academy and who is required to perform the duties of a parole officer as provided in Iowa Code section 906.2.

**4.6(5)** Service reclassification.

*a.* Prior to July 1, 2006, except as otherwise indicated in the implementing legislation or these rules, for a member whose prior regular service position is reclassified by the legislature as a special service position, all prior service by the member in such regular service position shall be coded by IPERS staff as special service if certified by the employer as constituting special service under current law. No additional contributions shall be required by regular service reclassified as special service under this paragraph.

*b.* Effective July 1, 2006, for a member whose prior regular service position is reclassified by the legislature as a special service position, all prior service by the member in such regular service position shall continue to be coded by IPERS staff as regular service unless the legislature specifically provides in its legislation for payment of the related actuarial costs of such reclassified service as required under Iowa Code section 97B.65.

**4.6(6)** Effective July 1, 2006, in the determination of a sheriff's or deputy sheriff's eligibility for benefits and the amount of such benefits under Iowa Code section 97B.49C, all protection occupation service credits for that member shall count toward the total years of eligible service as a sheriff or deputy sheriff. However, this subrule shall not be construed to alter the statutory requirement that a sheriff or

deputy sheriff must be employed as a sheriff or deputy sheriff at termination of covered employment in order to qualify for benefits under Iowa Code section 97B.49C.

**4.6(7)** Pretax.

*a.* Effective January 1, 1995, employers must pay member contributions on a pretax basis for federal income tax purposes only. Such contributions are considered employer contributions for federal income tax purposes and employee contributions for all other purposes. Employers must reduce the member's salary reportable for federal income tax purposes by the amount of the member's contribution.

*b.* Salaries reportable for purposes other than federal income tax will not be reduced, including for IPERS, FICA, and, through December 31, 1998, state income tax purposes.

*c.* Effective January 1, 1999, employers must pay member contributions on a pretax basis for both federal and state income tax purposes.

[**ARC 7591B**, IAB 2/25/09, effective 7/1/09; **ARC 7759B**, IAB 5/6/09, effective 4/17/09; **ARC 7916B**, IAB 7/1/09, effective 8/5/09; **ARC 8601B**, IAB 3/10/10, effective 4/14/10; **ARC 9397B**, IAB 2/23/11, effective 3/30/11; **ARC 0017C**, IAB 2/22/12, effective 3/28/12; **ARC 0662C**, IAB 4/3/13, effective 5/8/13; **ARC 1348C**, IAB 2/19/14, effective 3/26/14; **ARC 1887C**, IAB 2/18/15, effective 3/25/15]

**495—4.7(97B) Employee information to be provided by covered employers.** Covered employers are required to enroll new employees prior to reporting wages for the new employees. Enrollment information shall include, but is not limited to, the following: member's name, social security number, date of birth, date of hire, occupation code, gender, mailing address, termination date and last check date, when appropriate, and employer identification number.

For new employee enrollments submitted on or after August 1, 2008, employers shall submit the required information using IPERS' employer self service Web application, on compact discs, or on paper. However, those employers submitting information on compact discs or on paper will be charged a fee as described in subrule 4.3(6).

**495—4.8(97B) Additional employer contributions from employer-mandated reduction in hours or by the exercise of bumping rights to avoid a layoff.** Effective January 1, 2009, this rule applies to the restoration of covered wages reduced by an employer-mandated reduction in hours (EMRH) or the restoration of covered wages reduced by the exercise of bumping rights to avoid a layoff. It does not apply to reductions in base wages, reduced overtime wages, permanent layoffs or other termination of employment situations. EMRH references in this rule shall apply both to situations involving the loss of covered wages due to employer-mandated reductions in hours and to the loss of covered wages due to the exercise of bumping rights to avoid a layoff.

**4.8(1)** A member may restore the member's three-year average covered wage to the amount that it would have been but for an EMRH by completing the IPERS EMRH application form and related payroll deduction authorization and by filing the application and payroll deduction authorization forms with the employer. By so doing, the member agrees to pay the employee and employer contributions for all reduced work hours and bumping reductions between January 1, 2009, through June 30, 2011.

**4.8(2)** A member cannot pay the EMRH contributions described under this rule in any manner except through payroll deductions.

**4.8(3)** The payroll deduction authorization described under this rule shall be irrevocable, except upon death, retirement or termination of employment. If revoked by the member's death, retirement, or termination of employment, all amounts held by an employer in the member's name shall be forwarded to the member along with the member's final wages.

**4.8(4)** A member may obtain a refund of EMRH contributions collected under this rule as part of a refund of the member's entire account balance or an actuarial equivalent (AE) payment, but a member who commences a monthly retirement allowance shall not receive a refund of any amounts contributed, even if the covered wages being restored are not used in the member's three-year average covered wage.

**4.8(5)** A covered employer must cooperate with an eligible member's request for payroll deductions using the applicable IPERS forms. Employers shall be required to complete and submit wage certifications showing the covered wages that would have been reported but for the EMRH.

**4.8(6)** After IPERS has received and processed wage certification forms, the employer will be billed for the applicable EMRH contributions on the next employer monthly statement. If contributions are not paid by the employer statement's due date, the employer will be assessed late fees and interest in accordance with rule 495—4.3(97B).

**4.8(7)** In completing the federal and state wage reporting forms to be filed with the federal and state tax authorities, an employer shall treat the EMRH contributions collected and forwarded to IPERS the same as pretax IPERS employee contributions.

**4.8(8)** Upon receipt of the contributions pursuant to this rule, IPERS shall apply them to the member's account as pretax employee contributions.

**4.8(9)** This rule applies to reductions in wages caused by an EMRH through June 30, 2011. An employer's collection of contributions from such wages shall terminate as of midnight, July 31, 2011. All completed EMRH forms and contributions collected under this rule must be forwarded to IPERS by a covered employer no later than August 15, 2011.

[**ARC 7759B**, IAB 5/6/09, effective 4/17/09; **ARC 7916B**, IAB 7/1/09, effective 8/5/09; **ARC 8929B**, IAB 7/14/10, effective 6/21/10; **ARC 9068B**, IAB 9/8/10, effective 10/13/10]

These rules are intended to implement Iowa Code sections 97B.4, 97B.9, 97B.14, 97B.14A, 97B.38, 97B.49A to 97B.49I, 97B.65 and 97B.70 and 2009 Iowa Acts, chapter 170, section 51, as amended by 2010 Iowa Acts, House File 2518, sections 36 and 41.

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# CHAPTER 8
# SERVICE PURCHASES
[Prior to 11/24/04, see 581—Ch 21]

**495—8.1(97B) Service eligible for purchase.**

**8.1(1)** *Prior service buy-back.*

*a.* Effective July 1, 1990, a member who was active, vested or retired on or after July 1, 1978, and who made contributions to IOASI between January 1, 1946, and June 30, 1953, and took a refund of those contributions, may buy back the amount of that refund plus interest in order to establish quarters of service covered by the refund. Less than a full quarter of service will be considered equivalent to a full quarter of service. A teacher who has three quarters of service and a contract for the following year will be granted four quarters of service. IPERS may require the submission of a copy of the contract.

*b.* Prior to July 1, 1990, a member who was active, vested or retired as of July 1, 1978, and who made contributions to IOASI between January 1, 1946, and June 30, 1953, and who took a refund of those contributions, was able to buy back the amount of that refund and establish years of service covered by the refund.

*c.* A member cannot participate in the prior service buy-back if the member had taken an IPERS refund (contributions made after July 4, 1953) unless the member first participated in the IPERS buy-back in accordance with this rule.

If a member decides to buy back prior service credit, the member must repay the entire refunded amount plus the accumulated interest and interest dividends on that amount.

If a member participating in a prior service buy-back had years of public service within Iowa prior to January 1, 1946, those years of service will also be added to the member's account at no cost, subject to the member's providing verification of public service.

**8.1(2)** *Service credit for other public employment.*

*a.* Effective July 1, 1992, a vested or retired member may make application to IPERS for purchasing credit for service rendered to another public employer. In order to be eligible, a member must:

(1) Have been a public employee in a position comparable to an IPERS covered position at the time the application for buy-in is processed. Effective July 1, 1990, "public employee" includes a member who had service as a public employee in another state, or for the federal government, or within other retirement systems established in the state of Iowa; and

(2) Submit verification of service for that other public employer to IPERS.

A quarter of credit may be purchased for each quarter the employee received wages.

*b.* Effective July 1, 1992, through June 30, 1999, a qualifying member who decides to purchase IPERS credit must make employer and employee contributions to IPERS for each calendar quarter of service allowed in this buy-in. This contribution shall be determined using the member's IPERS covered wages for the most recent full calendar year of IPERS coverage, the applicable rates established in Iowa Code sections 97B.11, 97B.49B and 97B.49C, and multiplied by the number of quarters being purchased from other public employment. "Applicable rates" means the rates in effect at the time of purchase for the types of service being purchased. A member must have at least four quarters of reported wages in any calendar year before a buy-in cost may be calculated.

*c.* Effective July 1, 1992, through June 30, 1999, if a vested or retired member does not have wages in the most recent calendar year, the cost of the buy-in will be calculated using the member's last calendar year of reported wages, adjusted by an inflation factor based on the Consumer Price Index as published by the United States Department of Labor.

*d.* Members eligible to complete the buy-in may buy the entire period of service for a public employer or may buy credit in increments of one or more calendar quarters. The quarters need not be specifically identified to particular calendar quarters. A period of service is defined as follows: (1) if a member was continuously employed by an employer, the entire time is one period of employment, regardless of whether a portion or all of the service was covered by one or more retirement systems; and (2) if a member is continuously employed by multiple employers within a single retirement system, the

entire service credited by that retirement system is one period of employment. A member with service credit under another public employee retirement system who wishes to transfer only a portion of the service value of the member's public service in another public system to IPERS must provide a waiver of that service time to IPERS together with proof that the other public system has accepted this waiver and allowed partial withdrawal of service credit. Members are allowed to purchase time credited by the other public employer as a leave of absence in the same manner as other service credit. However, members wishing to receive free credit for military service performed while in the employ of a qualifying non-IPERS covered public employer must purchase the entire period of service encompassing the service time for that public employer or in the other retirement system, excluding the military time. Veterans' credit originally purchased in another retirement system may be purchased in the same manner as other service credit.

*e.* The total amount paid will be added to the member's contributions, and the years of service this amount represents will be added to the member's IPERS years of service. Effective January 1, 1993, the purchase will not affect the member's three-year average covered wage.

*f.* Effective July 1, 1999, an eligible member must pay the actuarial cost of a buy-in, as certified by IPERS. In calculating the actuarial cost of a buy-in, IPERS shall apply the same actuarial assumptions and cost methods used in preparing IPERS' annual actuarial valuation, except that: (1) the retirement assumption shall be changed to 100 percent at the member's earliest unreduced retirement age; and (2) if gender-distinct mortality assumptions are used in the annual actuarial valuation, the system shall use blended mortality assumptions reasonably representative of the system's experience. The actuarial cost of a service purchase shall be the difference between (1) the actuarial accrued liability for the member using the foregoing assumptions and current service credits, and (2) the actuarial accrued liability for the member using the foregoing assumptions, current service credits, and all quarters of service credit available for purchase. If IPERS changes the service purchase mortality assumptions, all outstanding service purchase quotes shall be binding for the remainder of the periods for which the cost quotes were issued. A cost quote for a service purchase shall expire six months after the date printed on the cost quote letter. After that time, a new cost quote must be obtained for any quarters not previously purchased.

*g.* Effective January 1, 2016, for new service purchase applications and updated cost requests received, the following procedures and calculations shall apply:

(1) Service purchase estimate prior to retirement. Members who are vested by service may request a service purchase estimate by completing and submitting a service purchase application. Once the application is submitted, IPERS shall complete a cost estimate. This calculation is an estimate only and is not considered binding. The cost estimate shall be calculated as follows:

1. IPERS will calculate the cost by capturing the baseline benefit attributes at the member's anticipated retirement date without any service purchase quarterly credits including: average salary, years of service, the Option 2 benefit amount, current member investment amount and the calculated present-day reserve value. The present-day reserve value is a lump sum value calculated with actuarial tables provided by the system's actuary which represents the lump sum value sufficient to pay the monthly benefits over the member's expected life span.

2. With each potential purchasable quarterly service credit, IPERS will recalculate the Option 2 benefit amount. A new present-day reserve value will also be calculated. The cost of each quarterly service credit will be the difference between the new reserve amount and the previous one.

(2) Final service purchase cost quote at retirement. On or before the date that a member's first benefit payment is issued, a member who is vested by service may request a final service purchase cost quote by completing and submitting an application for retirement/disability benefit indicating the member's desire to receive a final service purchase cost quote. Once submitted, IPERS shall generate a final service purchase cost quote once all of the member's wages are submitted to IPERS, which may be after the member's first month of entitlement. The final cost quote shall be calculated as follows:

1. IPERS will calculate the cost by capturing the baseline benefit attributes at the member's first month of entitlement without any service purchase quarterly credits including: average salary, years of service, the Option 2 benefit amount, current member investment amount and the calculated present-day reserve value. The present-day reserve value is a lump sum value calculated with actuarial tables

provided by the system's actuary which represents the lump sum value sufficient to pay the monthly benefits over the member's expected life span. With each potential purchasable service credit, IPERS will recalculate the Option 2 benefit amount. A new present-day reserve value will also be calculated. The cost of each purchasable quarter of service credit will be the difference between the new reserve amount and the previous one.

2. The retired member will have six months from the date in which IPERS generates the final service purchase cost quote to purchase additional service.

3. If the retired member purchases service within the six-month deadline, the increase in the retirement benefit shall be made effective with the month of the service purchase payment.

4. Retired members who do not indicate their desire for a final service purchase cost quote on or before the date their first payment is issued or do not complete the purchase within the six-month deadline indicated on the final service purchase cost quote shall not be eligible to purchase additional credit.

(3) Cost adjustments due to changes in the original retirement benefit. If an error in the service purchase cost is discovered or a retired member's account is adjusted in any manner after a purchase is made, IPERS may rescind the service purchase, make adjustments to the service purchase cost, or adjust the retirement allowance to ensure the member paid the actuarial cost of buying additional service. In the event that a retired member overpays due to an adjustment, IPERS will issue a refund to the retired member directly or to the rollover institution.

**8.1(3)** *IPERS buy-back.* Effective July 1, 1996, only vested or retired members may buy back previously refunded IPERS credit. For the period beginning July 1, 1996, and ending June 30, 1999, an eligible member is required to make membership contributions equal to the accumulated contributions received by the member for the period of service being purchased plus accumulated interest and interest dividends. Effective July 1, 1999, an eligible member must pay the actuarial cost of a buy-back, as certified by IPERS. In calculating the actuarial cost, IPERS shall apply the same actuarial assumptions and cost methods used in preparing IPERS' annual actuarial valuation, except that: (1) the retirement assumption shall be changed to 100 percent at the member's earliest unreduced retirement age; and (2) if gender-distinct mortality assumptions are used in the annual actuarial valuation, the system shall use blended mortality assumptions reasonably representative of the system's experience. The actuarial cost of a service purchase shall be the difference between (1) the actuarial accrued liability for the member using the foregoing assumptions and current service credits, and (2) the actuarial accrued liability for the member using the foregoing assumptions, current service credits, and all quarters of service credit available for purchase. If IPERS changes the service purchase mortality assumptions, all outstanding service purchase quotes shall be binding for the remainder of the periods for which the cost quotes were issued. A cost quote for a service purchase shall expire six months after the date printed on the cost quote letter. After that time, a new cost quote must be obtained for any quarters not previously purchased.

Effective July 1, 1996, buy-backs may be made in increments of one or more calendar quarters. Prior to July 1, 1996, the member was required to repurchase the entire period of service and repay the total amount received plus accumulated interest and interest dividends.

A member who is vested solely by having attained the age of 55 must have at least one calendar quarter of wages on file with IPERS before completing a buy-back.

For persons who submitted requests for buy-back cost quotes on or before January 14, 2004, IPERS shall restore the wage records of a member who makes a buy-back based on those quotes and utilize those wage records in subsequent benefit calculations for that member.

For persons who submit requests for buy-back cost quotes and make purchases based on those quotes after January 14, 2004, IPERS shall not restore the wage records for the purchased quarters. After January 14, 2004, such buy-backs shall be treated like all other service purchases and IPERS will only restore service credit.

Effective January 1, 2016, the member must be vested by service and must pay the actuarial cost of a service purchase, as certified by IPERS. In calculating the actuarial cost, IPERS shall apply the same actuarial assumptions, procedures and cost methods as those described in paragraph 8.1(2)*"g."*

**8.1(4)** *Prior service credit prior to January 1946.* A member who had service before January of 1946 but no service between January 1, 1946, and June 30, 1953, is eligible to receive credit for that service at no cost, subject to the member's providing verification of that service. If the member was employed after July 4, 1953, and took a refund of contributions, that member must first participate in the membership service buy-back (see subrule 8.1(3)) before receiving credit for service prior to 1946.

A member must submit proof of service in order to qualify.

**8.1(5)** *Veterans' credit.*

*a.* Effective July 1, 1992, a vested or retired member, in order to receive service credit under the IPERS system, may elect to make employer and employee contributions to IPERS for a period of active duty service in the armed forces of the United States, in increments of one or more calendar quarters, if the member produces verification of active duty service in the armed forces of the United States.

*b.* A member must have at least four quarters of reported wages in any calendar year before a buy-in cost may be calculated.

*c.* A service purchase shall not affect the member's high three-year average wage.

*d.* Effective July 1, 1999, an eligible member must pay the actuarial cost of a military service purchase, as certified by IPERS. In calculating the actuarial cost, IPERS shall apply the same actuarial assumptions and cost methods as those in paragraph 8.1(2)*"f."*

*e.* Effective January 1, 2016, the member must be vested by service and must pay the actuarial cost of a service purchase, as certified by IPERS. In calculating the actuarial cost, IPERS shall apply the same actuarial assumptions, procedures and cost methods as those described in paragraph 8.1(2)*"g."*

**8.1(6)** *Legislative members.*

*a.* *Active members.* Persons who are members of the Seventy-first General Assembly or a succeeding general assembly during any period beginning July 4, 1953, may, upon proof of such membership in the general assembly, make contributions to the system for all or a portion of the period of such service in the general assembly. The contributions made by the member shall be determined in the same manner as provided in paragraph 8.1(2)*"f."*

*b.* *Vested or retired former members of the general assembly.*

(1) A vested or retired member of the system who was a member of the general assembly prior to July 1, 1988, may make contributions to the system for all or a portion of the period of service in the general assembly.

(2) The contributions made by the member shall be equal to the accumulated contributions as defined in Iowa Code section 97B.1A(2), which would have been made if the member of the general assembly had been a member of the system during the period of service in the general assembly being purchased.

(3) The member shall submit to IPERS proof of membership in the general assembly for the period claimed.

(4) Upon determining a member eligible and receiving the appropriate contributions from the member, IPERS shall credit the member with the period of membership service for which contributions are made.

*c.* *Incremental purchases.* Service purchased under this subrule must be purchased in increments of one or more calendar quarters.

*d.* *Actuarial cost.* Effective July 1, 1999, an eligible member must pay 40 percent and the Iowa legislature shall pay 60 percent of the actuarial cost of a legislative service purchase, as certified by IPERS. In calculating the actuarial cost, IPERS shall apply the same actuarial assumptions and cost methods as those in paragraph 8.1(2)*"f."*

*e.* Effective January 1, 2016, the member must be vested by service and must pay 40 percent and the Iowa legislature shall pay 60 percent of the actuarial cost of a service purchase, as certified by IPERS. In calculating the actuarial cost, IPERS shall apply the same actuarial assumptions, procedures and cost methods as those described in paragraph 8.1(2)*"g."*

**8.1(7)** *Vocational school (area community college) employees who may elect coverage under another retirement system.*

*a.* Effective July 1, 1990, a person newly entering employment with an area vocational school or area community college may choose to forego IPERS coverage and elect coverage under an alternative retirement benefits system, which is issued by or through a nonprofit corporation issuing retirement annuities exclusively to educational institutions and their employees. This option is available only to those newly hired persons who are already members of the alternative retirement system. Such an election by a newly employed person is irrevocable.

*b.* Effective July 1, 1994, and providing that the board of directors of the area vocational school or area community college have approved participation in an alternative retirement system pursuant to Iowa Code section 260C.23, a member employed by an area vocational school or an area community college may elect coverage under an alternative retirement benefits system, which is issued by or through a nonprofit corporation issuing retirement annuities exclusively to educational institutions and their employees, in lieu of continuing or commencing contributions to IPERS.

*c.* Effective July 1, 1994, a person who is employed before that date with an area community college may file a one-time irrevocable election form with IPERS and the employer electing participation in an alternative plan. The election form must be postmarked by December 31, 1995. If a person is employed July 1, 1994, or later, the person may file a one-time election form with IPERS and the employer electing participation in the alternative plan. The election form must be postmarked within 60 days from the date employed. The employee will be a member of IPERS unless an election is filed within the specified time frames. An employee vested with IPERS retains all of the rights of any vested member for as long as the contributions remain with the fund. Such members may not, however, apply for retirement benefits until attaining the age of 70, or until they terminate employment with all public employers.

*d.* Effective July 1, 1999, an eligible member must pay the actuarial cost of a service purchase, as certified by IPERS. In calculating the actuarial cost, IPERS shall apply the same actuarial assumptions and cost methods as those in paragraph 8.1(2)*"f."*

*e.* Effective January 1, 2016, the member must be vested by service and must pay the actuarial cost of a service purchase, as certified by IPERS. In calculating the actuarial cost, IPERS shall apply the same actuarial assumptions, procedures and cost methods as those described in paragraph 8.1(2)*"g."*

**8.1(8)** *Leaves of absence.* Service credit for leaves of absence that begin on or after July 1, 1998, may be purchased. A member must be vested or retired and must have one calendar year of wages on file in order to make such a purchase.

For a leave of absence beginning on or after July 1, 1998, and purchased before July 1, 1999, the service purchase cost shall be equal to the employer and employee contributions and interest payable for the employee's most recent year of covered wages, adjusted by the inflation factor used in paragraph 8.1(2)*"c."* For a leave of absence beginning on or after July 1, 1998, and purchased on or after July 1, 1999, the service purchase cost shall be the actuarial cost, as certified by IPERS. In calculating the actuarial cost of a service purchase under this subrule, IPERS shall apply the same actuarial assumptions and cost methods as those in paragraph 8.1(2)*"f."*

Effective January 1, 2016, the member must be vested by service and must pay the actuarial cost of a service purchase, as certified by IPERS. In calculating the actuarial cost, IPERS shall apply the same actuarial assumptions, procedures and cost methods as those described in paragraph 8.1(2)*"g."*

**8.1(9)** *Service credit for elective coverage positions—coverage not elected.* Service credit for periods of time prior to January 1, 1999, when the member was employed in a position for which coverage could have been elected, but was not, may be purchased. The cost of such service purchases shall be calculated in the same manner as provided for buy-ins under paragraph 8.1(2)*"f."* In addition, a member must be vested or retired, and must have one calendar year of wages on file in order to make such a purchase.

Effective January 1, 2016, the member must be vested by service and must pay the actuarial cost of a service purchase, as certified by IPERS. In calculating the actuarial cost, IPERS shall apply the same actuarial assumptions, procedures and cost methods as those described in paragraph 8.1(2)*"g."*

**8.1(10)** *Service credit for noncovered public employment in Iowa.* A vested or retired member who has one or more years of service credit and who was previously employed in public employment for which optional coverage was not available, such as substitute teaching or other temporary employment, may purchase service credit for such employment subject to the requirements of Iowa Code section 97B.80C. Service credit may not be purchased under this subrule for periods in which the individual was performing services as an independent contractor. The contributions required under this subrule shall be in an amount equal to the actuarial cost of the service purchase as determined under paragraph 8.1(2)*"f."*

Effective January 1, 2016, the member must be vested by service and must pay the actuarial cost of a service purchase, as certified by IPERS. In calculating the actuarial cost, IPERS shall apply the same actuarial assumptions, procedures and cost methods as those described in paragraph 8.1(2)*"g."*

**8.1(11)** *Federal Peace Corps program service credit under Iowa Code section 97B.80C.* Rescinded IAB 7/16/08, effective 6/25/08.

**8.1(12)** *Purchase of service credit for employment with a qualified Canadian governmental entity.* Rescinded IAB 7/16/08, effective 6/25/08.

**8.1(13)** *Patient advocate service purchases.* Rescinded IAB 7/16/08, effective 6/25/08.

[**ARC 1887C**, IAB 2/18/15, effective 3/25/15]

**495—8.2(97B) Revocation of service purchase application and refund of amounts paid.** A member may revoke a service purchase application and receive a refund without interest of all or a portion of amounts paid to IPERS to buy back prior service credit or to purchase credit for other service pursuant to Iowa Code chapter 97B. The revocation must be made in writing within 60 days after the date of receipt of such amounts by IPERS. Such refunds shall be in increments representing one or more quarters. No refund shall be made if a member has made a service purchase under this chapter and one or more monthly retirement allowance payments have been made thereafter. Furthermore, this rule shall not limit IPERS' ability to refund service purchase amounts when required in order to meet the provisions of the Internal Revenue Code that apply to IPERS. This rule shall be effective for revocation requests received by IPERS on or after May 3, 1996.

**495—8.3(97B) IRC Section 415(n) compliance.** Service purchases made under this chapter and other posttax contributions shall not exceed the defined contribution limit then in effect under Internal Revenue Code Section 415(c), per calendar year. In addition, the amounts contributed for service purchases under this chapter shall not exceed the amount required to purchase the service according to the current cost schedules. In implementing these and the other requirements of IRC Section 415(n), IPERS shall use the following procedures.

**8.3(1)** If the member's total benefit at retirement passes the fully reduced IRC Section 415(b) dollar limit test, IPERS shall pay the total benefit.

**8.3(2)** If the member's total benefit at retirement fails the fully reduced IRC Section 415(b) dollar limit test, and the member made one or more service purchases, IPERS shall perform the applicable IRC Section 415 tests, with adjustments for posttax service purchases and other posttax contributions, and pay excess amounts, if any, under a qualified benefits arrangement authorized under Iowa Code section 97B.49I.

**8.3(3)** IPERS permits the purchase of nonqualified service credit, as defined under IRC Section 415(n). "Nonqualified service" means:

*a.* Service that is not qualified service under Iowa Code section 97B.80C; and

*b.* Service for which no services were performed; and

*c.* Service for which the member is entitled to receive retirement benefits under another retirement plan. A member must have 20 quarters of existing service to make such a purchase. Nonqualified service credit purchased shall not exceed 20 quarters. This limit is an aggregate limit that applies to all quarters categorized as nonqualified service credit.

**8.3(4)** The limitations of this rule shall not apply to buy-backs of prior refunds. In addition, the annual limit under this rule shall not apply to service purchases grandfathered under the provisions of the Iowa Code and Section 1526 of the Taxpayer Relief Act of 1997.

**8.3(5)** If IPERS adopts rules and procedures permitting service to be purchased on a pretax basis, the amounts contributed will not be combined with posttax service purchases and other posttax contributions in applying the foregoing procedures.

**8.3(6)** The provisions of this rule shall apply to all vested members who have an account balance and to retired members.

**8.3(7)** The IRC Section 415(c) limitations shall not apply to a service purchase that qualifies as a direct rollover for an eligible retirement plan or a direct transfer from a plan qualified under IRC Section 403(b) or 457. The IRC Section 415(c) limits also shall not apply to a service purchase under subrule 8.1(3).

**8.3(8)** IPERS reserves the right to apply the limitations of IRC Section 415(n) on a case-by-case basis to ensure that such limits are not exceeded.

**495—8.4(97B) Required quarters of wages on file.**

**8.4(1)** If a member is attempting to purchase service credit under this chapter, and any particular rule under this chapter requires that the member must have four calendar quarters of wages on file as a precondition to making the purchase, and the member's regular job duties are performed in fewer than four calendar quarters each year, the four-calendar-quarter requirement shall be reduced to the number of calendar quarters regularly worked by the member.

**8.4(2)** Effective January 1, 2016, the member must be vested by service.

[**ARC 1887C**, IAB 2/18/15, effective 3/25/15]

**495—8.5(97B) Additional information, procedures and limitations.**

**8.5(1)** *Information required for service purchase cost quotes.*

*a. Active and inactive members.* For active and inactive members, a service purchase cost quote must include the following information: member's date of birth, the applicable occupation class code, total years of current unused IPERS service credit, highest calendar year of covered wages on file, member's current investment, and the total number of quarters available to purchase on this cost quote.

Effective January 1, 2016, the member must be vested by service and must pay the actuarial cost of a service purchase, as certified by IPERS. In calculating the actuarial cost, IPERS shall apply the same actuarial assumptions, procedures and cost methods as those described in paragraph 8.1(2)*"g."*

*b. Retired members.* For retired members, a service purchase cost quote must include the following information: member's date of birth, the applicable occupation class code, average of the highest three calendar years of covered wages, the option the member selected at retirement, the total number of quarters available to purchase on this cost quote, and a calculation of the member's new benefit amount if the member actually purchases all of the quarters in this service purchase cost quote.

If the member retired under Option 4 or 6, IPERS must be provided with either the date of death or the date of birth, as applicable, for the contingent annuitant, and the percent selected by the member for continuation of benefits to the contingent annuitant upon the member's death. If the member retired under Option 6, IPERS shall calculate how the member's benefits will change under Option 2 upon the contingent annuitant's death. In preparing cost quotes for retired members who selected Option 4 or 6, IPERS shall use for beneficiary mortality assumption the reverse of the assumption used for benefit mortality.

If the member retired under Option 5, a service purchase cost quote shall also include information on how many months are remaining on the guaranteed ten-year payout.

Effective January 1, 2016, the member must be vested by service and must pay the actuarial cost of a service purchase, as certified by IPERS. In calculating the actuarial cost, IPERS shall apply the same actuarial assumptions, procedures and cost methods as those described in paragraph 8.1(2)*"g."*

*c. Reemployment.* If the member is retired and subsequently reemployed in IPERS covered employment and then requests a service purchase cost quote, IPERS shall apply the service to be purchased to the member's original annuity. IPERS shall use the same information as described in paragraphs *"a"* and *"b"* of this subrule, and IPERS shall appropriately calculate the service purchase cost quote.

Effective January 1, 2016, retired and subsequently reemployed members are no longer eligible.

*d.* *Wage records restored.* When buy-back quarters are purchased based on cost quotes requested prior to January 14, 2004, the member's wage record shall be restored, beginning with the lowest wage quarter and restoring additional quarters in ascending order based on the covered wages reported for such quarters. Wage records shall not be created or restored for any other type of service purchase.

*e.* *Wage records not restored.* For members who submit requests for buy-back cost quotes and make purchases based on those quotes after January 14, 2004, IPERS shall not restore the wage records for the purchased quarters. After January 14, 2004, such buy-backs shall be treated like all other service purchases, and IPERS will only restore service credit.

**8.5(2)** *Additional service purchase procedures.*

*a.* Service purchase cost quotes for members currently in special service positions shall be prepared as special service credit.

*b.* Members covered under another retirement plan. Members who wish to buy service credit for employment that is covered by another retirement plan qualified under IRC Section 401, IRC Section 403 or 457 and similar plans and retirement pay from the United States government for active duty in the armed forces (except retirement pay for nonregular service pursuant to 10 U.S.C. Sections 12731-12739) must waive their right to benefits based on the service credit that is being purchased under IPERS. If a waiver is not obtained, however, service purchases for such employment may still be made but shall be limited to 20 quarters.

*c.* Members retired under IPERS' disability formula. A retired member receiving IPERS benefits as a result of a disability shall receive a service purchase cost quote which reflects no penalty for early age reduction.

*d.* Effective January 1, 2007, IPERS may, notwithstanding certain provisions of Iowa Code section 97B.82 adopted in order to comply with prior rollover provisions of the Internal Revenue Code, utilize forms and procedures permitting direct rollover service purchases to include after-tax amounts as provided under the applicable rollover provisions of the Internal Revenue Code as amended subsequent to the enactment of Iowa Code section 97B.82.

**8.5(3)** *Additional service purchase limitations.*

*a.* Under no circumstances shall service purchases be allowed for quarters already on file with IPERS as covered quarters.

*b.* If a member has requested a service purchase cost quote and, before the six-month expiration has passed, submits another request for a service purchase cost quote for the same or different employer, the new service purchase cost quote will be based on a combination of the two service purchase cost quotes. The latest service purchase cost quote shall supersede all prior cost quotes provided to the member for the quarters that the member purchases after the issuance of the second cost quote.

*c.* If before the six-month expiration has passed a member has made a partial purchase under a service purchase cost quote and requests another service purchase cost quote, the quarters covered by the original cost quote will be added to the new request. IPERS will prepare a new service purchase cost quote. The latest service purchase cost quote shall supersede all prior quotes provided to the member for quarters that the member purchases after the issuance of the second cost quote. For example, if the member receives a cost quote of $300 per quarter for 6 quarters of Illinois public employment and, three months later, after buying 3 Illinois quarters, requests a service purchase cost quote for 8 quarters of military service, the second quote would be prepared using 11 quarters as the basis for the cost quote. The per-quarter cost quote prepared using the 11 quarters would supersede the $300 per-quarter cost previously quoted. This superseding cost principle will apply regardless of whether the recalculated cost is greater or less than the superseded quote. Thus, in the above example, if the second cost quote is $350 per quarter, that would be the price for all 11 quarters for the next six months. However, if the second quote comes in at $250 per quarter, that would be the cost for all 11 quarters for the next six months.

*d.* Self-employed members. Because of the difficulty in documenting what portion of the amounts paid are actually related to the performance of services, including amounts reported to the federal and state tax authorities, members shall not be permitted to purchase service credit for periods of self-employment.

**8.5(4)** *"Buy up" of service credit through service purchase.* Effective July 1, 2008, IPERS members may be allowed to "buy up" service credit. The term "buy up" means to convert regular service credit to special service credit by payment of the actuarial cost. In calculating the actuarial cost, IPERS shall apply the same actuarial assumptions and cost methods as those in paragraph 8.1(2)*"f,"* except as modified according to the actuary's recommendations.

Effective January 1, 2016, the member must be vested by service and must pay the actuarial cost of a service purchase, as certified by IPERS. In calculating the actuarial cost, IPERS shall apply the same actuarial assumptions, procedures and cost methods as those described in paragraph 8.1(2)*"g."*

*a. Active, retired and inactive members.* Effective January 1, 2016, a member must have at least one quarter of available or retired special service wages on file and must be vested by years of service at the time of the buy-up.

*b. Mixture of service time.* If a member's service time contains a mixture of regular, protection and sheriff service credit, IPERS shall prepare buy-up cost quotes as follows:

(1) If the member is currently employed in the sheriff class or retired as a sheriff, the cost quote shall be prepared reflecting a buy-up to sheriff service credit.

(2) If the member is not currently employed in the sheriff class or did not retire as a sheriff, the cost quote shall be prepared reflecting a buy-up to protection occupation service credit.

*c. Wage adjustment after a buy-up.* If an employer wage adjustment completely removes a member's service credit in a buy-up quarter, IPERS shall correct the service credit and perform the necessary recalculations.

*d. IRS limitations.* Buy-up service purchases will be aggregated with buy-in service purchases during a calendar year and subjected to the applicable limits of Section 415(c) of the Internal Revenue Code. Amounts that are rolled over from other qualified plans for service purchases are excluded from these limits.

[**ARC 1887C**, IAB 2/18/15, effective 3/25/15]

**495—8.6(97B) Adjustments.** If an error in the service purchase cost is discovered or a member's account is adjusted in any manner after a purchase is made, IPERS may rescind the service purchase, make adjustments to the service purchase cost, or adjust the retirement allowance to ensure the active or retired member is paying the actuarial cost of buying additional service.

[**ARC 1887C**, IAB 2/18/15, effective 3/25/15]

These rules are intended to implement Iowa Code sections 97B.1A, 97B.1A(13), 97B.1A(20), 97B.43, 97B.80, 97B.80C, and 97B.82.

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# CHAPTER 9
# REFUNDS
[Prior to 11/24/04, see 581—Ch 21]

**495—9.1(97B) Refunds for members with only one type of service credit.** A member is eligible for a refund of the employee accumulated contributions as soon as practicable after the last date the member is considered an employee, provided that the employee has filed the required forms and has not returned to covered employment before the date the refund is paid. Effective July 1, 1999, a vested member's refund shall also include a portion of the employer accumulated contributions. Refund amounts are determined as follows:

**9.1(1)** Employee accumulated contributions. Upon receiving an eligible member's application for refund, IPERS shall pay to the terminated member the amount of the employee accumulated contributions currently reported to, and processed by, IPERS as of the date of the refund. Upon reconciliation of the final employee contributions for that member, a supplemental refund of the employee accumulated contributions will be paid if funds remain in the member account.

**9.1(2)** Employer accumulated contributions. IPERS shall also pay to vested members, in addition to the employee accumulated contributions, a refund of a portion of the employer accumulated contributions. The refundable portion shall be calculated by multiplying the employer accumulated contributions by the "service factor." The "service factor" is a fraction, the numerator of which is the member's quarters of service and the denominator of which is the "applicable quarters." The "applicable quarters" shall be 120 for regular members and 88 for all special service members.

All quarters of service credit shall be included in the numerator of the service factor. In no event will a member ever receive an amount in excess of 100 percent of the employer accumulated contributions for that member.

In addition to the foregoing provisions, IPERS shall calculate the refundable portion of the employer accumulated contributions as follows:

*a.* Upon reconciliation of the final employer contributions for that member, the member's portion of the employer accumulated contributions will be recalculated. IPERS will add the additional quarter(s) of service to the numerator of the service factor. The adjusted service factor will be multiplied by the sum of the original employer accumulated contributions plus the supplemental employer accumulated contributions. The employer accumulated contributions included in the original refund will then be subtracted from that recalculated figure to determine the amount of employer accumulated contributions to be included in the supplemental refund.

*b.* The member's portion of employer accumulated contributions shall be determined under rule 495—9.2(97B) if the member had a combination of regular service and special service, or a combination of different types of special service.

**9.1(3)** In making calculations under this rule and rule 495—9.2(97B), IPERS shall round to not less than six decimal places to the right of the decimal point.

**495—9.2(97B) Refunds for members eligible for a hybrid refund.** The calculation of the member's portion of employer accumulated contributions for a "hybrid refund" shall be as follows:

**9.2(1)** A "hybrid refund" is a refund that is calculated for a member who has a combination of regular service and special service quarters.

**9.2(2)** If a member is eligible for a hybrid refund, the member's portion of employer accumulated contributions shall be calculated by multiplying the total employer accumulated contributions by: (a) the member's regular service factor, if any; and (b) the special service factor, if any (except as otherwise provided in this subrule). The amounts obtained will be added together to determine the amount of the employer accumulated contributions payable. In no event will a member ever receive an amount in excess of 100 percent of the employer accumulated contributions for that member.

**9.2(3)** Upon reconciliation of the final contributions from a member's employer, the member's portion of the employer accumulated contributions under this rule will be recalculated. IPERS will add the additional quarter(s) of service to the numerator of the applicable service factor. The adjusted

service factor will be multiplied by the sum of the original employer accumulated contributions plus the supplemental employer accumulated contributions. The employer accumulated contributions included in the original refund will then be subtracted from that recalculated figure to determine the amount of the employer accumulated contributions to be included in the supplemental refund.

**9.2(4)** If wages reported for a quarter are a combination of regular and special service wages, IPERS will classify the service credit for each quarter based on the largest dollar amount reported for that quarter. A member shall not receive more than one quarter of service credit for any calendar quarter, even though more than one type of service credit is recorded for that quarter.

**9.2(5)** If a member is last employed in a sheriff or deputy sheriff position, all quarters of "eligible service" shall be counted as quarters of sheriff or deputy sheriff service credit.

**9.2(6)** A special limitation applies to hybrid refunds where the member and employer contributed at regular rates for quarters that are eligible for coverage under Iowa Code section 97B.49B or Iowa Code section 97B.49C. If a member has regular service credit and special service credit and any part of the special service credit consists of quarters for which only regular contributions were made, such quarters will be counted as regular service quarters. However, the foregoing limitation will not apply if the member only has service credit eligible for coverage under Iowa Code section 97B.49B or only has service credit eligible for coverage under Iowa Code section 97B.49C.

**495—9.3(97B) Refund of retired reemployed members' contributions.** Rescinded IAB 7/14/10, effective 6/21/10.

**495—9.4(97B) General administrative provisions.** In addition to the foregoing, IPERS shall administer a member's request for a refund as follows:

**9.4(1)** To obtain a refund, a member must file a refund application form, which is available directly from IPERS or which can be reprinted from IPERS' Web site: www.ipers.org. Effective December 31, 2002, refund application forms shall only be available from IPERS. If the member is married, election of a refund under this chapter requires the written acknowledgment of the member's spouse. However, the system may accept a married member's election of a refund under this chapter without the written acknowledgment of the member's spouse if the member submits a notarized statement indicating that, after reasonable diligent efforts, the member has been unable to locate the member's spouse to obtain the written acknowledgment of the spouse. The member's election of a refund shall become effective upon filing the necessary forms, including the notarized statement, with the system. The system shall not be liable to the member, the member's spouse, nor to any other person affected by the member's election of a refund based upon an election of a refund accomplished without the written acknowledgment of the member's spouse.

**9.4(2)** The last date the member is considered an employee and the date of the last paycheck from which IPERS contributions will be deducted must be certified by the employer on the refund application unless the member has not been paid covered wages for at least one year or the employer has provided the termination date and date of the last paycheck on the monthly wage reports. Terminated employees must keep IPERS advised in writing of any change in address so that refunds and tax documents may be delivered.

**9.4(3)** Unless otherwise specified by the member, the refund warrant will be mailed to the member at the address listed on the application for refund. If a member so desires, the warrant may be delivered to the member or the member's agent at IPERS' principal office. The member must show verification of identification by presenting a picture identification containing both name and social security number. If a member designates in writing an agent to pick up the refund warrant, the agent must present to IPERS both the written designation and the described picture identification.

**9.4(4)** No payment of any kind is required under this rule if the amount due is less than $1.

**9.4(5)** Effective July 1, 2004, an employee must sever all covered employment for 30 days after the date the employee was last considered an employee, and not for 30 days after the date of the last paycheck containing IPERS covered wages.

**9.4(6)** Effective November 2006, an individual who previously stopped participating in IPERS to begin participating in an alternative plan shall not receive a refund of that individual's IPERS account while still employed by a covered employer, even if the member is no longer in IPERS covered employment.

[**ARC 1348C**, IAB 2/19/14, effective 3/26/14; **ARC 1887C**, IAB 2/18/15, effective 3/25/15]

**495—9.5(97B) Reinstatement following an employment dispute.** If an involuntarily terminated employee takes a refund and is later reinstated in covered employment as a remedy for an employment dispute, the member may reinstate membership service credit for the period covered by the refund by repaying the amount of the refund plus interest within 90 days after the date of the order or agreement requiring reinstatement. A reinstatement following an employment dispute shall not constitute a violation of Iowa Code section 97B.53(4), even if the reinstatement occurs less than 30 days after the date of termination. Accordingly, the reinstatement described above or, if later, a buy-back, shall be permitted but is not required. However, if the employee is retroactively reinstated and the previously reported termination is expunged, the reemployment shall be treated as falling within the scope of Iowa Code section 97B.53(4) and a previously paid refund shall be repaid with interest.

**495—9.6(97B) Refund followed by commencement of disability benefits under Iowa Code section 97B.50(2).** If a vested member terminates covered employment, takes a refund, and is subsequently approved for disability under the federal Social Security Act or the federal Railroad Retirement Act, the member may reinstate membership service credit for the period covered by the refund by paying the actuarial cost as determined by IPERS' actuary. Repayments must be made by:

1. For members whose federal social security or railroad retirement disability payments begin before July 1, 2000, within 90 days after July 1, 2000; or
2. For members whose social security or railroad retirement disability payments begin on or after July 1, 2000, within 90 days after the date federal social security or railroad retirement payments begin.

These rules are intended to implement Iowa Code sections 97B.50 and 97B.53.

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# CHAPTER 11
# APPLICATION FOR, MODIFICATION OF, AND TERMINATION OF BENEFITS
[Prior to 11/24/04, see 581—Ch 21]

**495—11.1(97B) Application for benefits.**

**11.1(1)** *Form used.* It is the responsibility of the member to notify IPERS of the intention to retire. This should be done 60 days before the expected retirement date. The application for monthly retirement benefits is obtainable from IPERS, 7401 Register Drive, P.O. Box 9117, Des Moines, Iowa 50306-9117. The printed application form shall be completed by each member applying for benefits and shall be mailed, sent by fax or brought in person to IPERS. An application that is incomplete or incorrectly completed will be returned to the member. To be considered complete, an application must include the following:

*a.* Proof of date of birth for the member.

*b.* Option selected, and

(1) If Option 1 is selected, the death benefit amount.

(2) If Option 4 or 6 is selected, the contingent annuitant's name, social security number, proof of date of birth, and relationship to member.

(3) If Option 1, 2, or 5 is selected, a list of beneficiaries.

*c.* If the member has been terminated less than one year, or is applying for disability benefits, the employer certification page must be completed by the employer unless the employer has provided the termination date and date of the last paycheck on the monthly wage reports.

*d.* Signature of member and spouse, both properly notarized unless witnessed by an authorized employee of the system.

*e.* If the member has no spouse, "NONE" must be designated.

*f.* If the member is applying for regular disability benefits, a copy of the award letter from the Social Security Administration or railroad retirement.

A retirement application is deemed to be valid and binding on the date the first payment is paid. Members shall not cancel their applications, change their option choice, or change an IPERS option containing contingent annuitant benefits after that date.

**11.1(2)** *Proof required in connection with application.* Proof of date of birth to be submitted with an application for benefits shall be in the form of a birth certificate, a U.S. passport, an infant baptismal certificate, a state identification card that is issued in compliance with the REAL ID Act of 2005, or a driver's license that is issued in compliance with the REAL ID Act of 2005. If these records do not exist, the applicant shall submit two other documents or records which will verify the day, month and year of birth. A photographic identification record may be accepted even if now expired unless the passage of time has made it impossible to determine if the photographic identification record is that of the applicant. The following records or documents are among those deemed acceptable to IPERS as proof of date of birth:

*a.* United States census record;

*b.* Military record or identification card;

*c.* Naturalization record;

*d.* A marriage license showing age of applicant in years, months and days on date of issuance;

*e.* A life insurance policy;

*f.* Records in a school's administrative office;

*g.* An official document from the U.S. Citizenship and Immigration Services, such as a "green card," containing such information;

*h.* Driver's license or Iowa nondriver identification card;

*i.* Adoption papers;

*j.* A family Bible record. A photocopy will be accepted with a notarized certification that the record appears to be genuine; or

*k.* Any other document or record ten or more years old, or certification from the custodian of such records which verifies the day, month, and year of birth.

If the member, the member's representative, or the member's beneficiary is unable or unwilling to provide proof of birth, or in the case of death, proof of death, IPERS may rely on such resources as it has available, including but not limited to records from the Social Security Administration, Iowa division of records and statistics, IPERS' own internal records, or reports derived from other public records, and other departmental or governmental records to which IPERS may have access.

IPERS is required to begin making payments to a member or beneficiary who has reached the required beginning date specified by Internal Revenue Code Section 401(a)(9). In order to begin making such payments and to protect IPERS' status as a plan qualified under Internal Revenue Code Section 401(a), IPERS may rely on its internal records with regard to date of birth, if the member or beneficiary is unable or unwilling to provide the proofs required by this subrule within 30 days after written notification of IPERS' intent to begin mandatory payments.

**11.1(3)** *Benefits estimates.* Prior to submitting an application for benefits, a member may request IPERS to prepare estimates of projected benefits under the various options as described under Iowa Code section 97B.51. A benefit estimate shall not bind IPERS to payment of the projected benefits under the various options specified in Iowa Code chapter 97B. A member cannot rely on the benefit estimate in making any retirement-related decision or taking any action with respect to the member's account, nor shall IPERS assume any liability for such actions. An estimate will not include deductions for a QDRO or any other legal assignments or orders on a member's account, unless specifically requested by the member. A member's actual benefit can only be known and officially calculated when an eligible member applies for benefits.

**11.1(4)** *Revocation of application.* If IPERS determines an application for benefits is invalid for any reason, IPERS shall revoke, in whole or in pertinent part, the application for benefits and the recipient shall repay all payments made under the revoked application or all payments made pursuant to the revoked part of the application. The terms of repayment shall be subject to the provisions of 495—11.7(97B).

[**ARC 8601B**, IAB 3/10/10, effective 4/14/10; **ARC 1348C**, IAB 2/19/14, effective 3/26/14; **ARC 1887C**, IAB 2/18/15, effective 3/25/15]

**495—11.2(97B) Retirement benefits and the age reduction factor.**

**11.2(1)** *Normal retirement.*

*a.* A member shall be eligible for monthly retirement benefits with no age reduction effective with the first of the month in which the member attains the age of 65, if otherwise eligible.

*b.* Effective July 1, 1998, a member shall be eligible for full monthly retirement benefits with no age reduction effective with the first of the month in which the member attains the age of 62, if the member has 20 full years of service and is otherwise eligible.

*c.* Effective July 1, 1997, a member shall be eligible to receive monthly retirement benefits with no age reduction effective the first of the month in which the member's age on the last birthday and the member's years of service equal or exceed 88, provided that the member is at least the age of 55 and is otherwise eligible.

**11.2(2)** *Early retirement.* A member shall be eligible to receive benefits for early retirement effective with the first of the month in which the member attains the age of 55 or the first of any month after attaining the age of 55 before the member's normal retirement date, provided the date is after the last day of service and the member is otherwise eligible.

**11.2(3)** *Aged 70 and older retirees.* A member shall be eligible to receive monthly retirement benefits with no age reduction effective with the first day of the month in which the member attains the age of 70, even if the member continues to be employed.

**11.2(4)** *Required beginning date.*

*a.* Notwithstanding the foregoing, IPERS shall commence payment of a member's retirement benefit under Iowa Code sections 97B.49A to 97B.49I (under Option 2) no later than the "required beginning date" specified under Internal Revenue Code Section 401(a)(9), even if the member has not submitted the application for benefits. If the lump sum actuarial equivalent could have been elected by the member, payments shall be made in such a lump sum rather than as a monthly allowance. The

"required beginning date" is defined as the later of: (1) April 1 of the year following the year that the member attains the age of 70½, or (2) April 1 of the year following the year that the member actually terminates all employment with employers covered under Iowa Code chapter 97B.

*b.* If IPERS distributes a member's benefits without the member's consent in order to begin benefits on or before the required beginning date, the member may elect to receive benefits under an option other than the default option described above, or as a refund, if the member contacts IPERS in writing within 60 days of the first mandatory distribution. IPERS shall inform the member which adjustments or repayments are required in order to make the change.

*c.* If a member cannot be located to commence payment on or before the required beginning date described above, the member's benefit shall be forfeited. However, if a member later contacts IPERS and wishes to file an application for retirement benefits, the member's benefits shall be reinstated.

*d.* For purposes of determining benefits, the life expectancy of a member, a member's spouse, or a member's beneficiary shall not be recalculated after benefits commence.

*e.* If an IPERS member has a qualified domestic relations order (QDRO) on file when a mandatory distribution is required, and the QDRO requires the member to choose a specific retirement option, IPERS shall pay benefits under the option required by the order.

**11.2(5)** *Mandatory distribution of small inactive accounts.* As soon as practicable after July 1, 2004, IPERS shall distribute small inactive accounts to members and beneficiaries as authorized in Iowa Code section 97B.48(5).

**11.2(6)** *Federal tax code limitation for selection of survivor percentages for same gender spouses.* Rescinded IAB 2/19/14, effective 3/26/14.

[**ARC 8601B**, IAB 3/10/10, effective 4/14/10; **ARC 1348C**, IAB 2/19/14, effective 3/26/14; **ARC 1887C**, IAB 2/18/15, effective 3/25/15]

**495—11.3(97B) First month of entitlement (FME).**

**11.3(1)** *General.* A member shall submit a written application to IPERS setting forth the retirement date, provided the member has attained at least age 55 by the retirement date and the retirement date is after the member's last day of service. A member's first month of entitlement shall be no earlier than the first day of the first month after the member's last day of service or, if later, the month provided for under subrule 11.3(2). No payment shall be made for any month prior to the month the completed application for benefits is received by IPERS.

If a member files a retirement application but fails to select a valid first month of entitlement, IPERS will select by default the earliest month possible. A member may appeal this default selection by sending written notice of the appeal postmarked on or before 30 days after a notice of the default selection was mailed to the member. Notice of the default selection is deemed sufficient if sent to the member at the member's address.

**11.3(2)** *Additional FME provisions.*

*a.* Effective through December 31, 1992, the first month of entitlement of a member who qualifies for retirement benefits is the first month following the member's date of termination or last day of leave, with or without pay, whichever is later.

*b.* Effective January 1, 1993, the first month of entitlement of an employee who qualifies for retirement benefits shall be the first month after the employee is paid the last paycheck, if paid more than one calendar month after termination. If the final paycheck is paid within the month after termination, the first month of entitlement shall be the month following termination.

*c.* Effective January 1, 2001, employees of a school corporation who are permitted by the terms of their employment contracts to receive their annual salaries in monthly installments over periods ranging from 9 to 12 months may retire at the end of a school year and receive trailing wages through the end of the contract year if they have completely fulfilled their contract obligations at the time of retirement. For purposes of this paragraph, "school corporation" means body politic described in Iowa Code sections 260C.16 (community colleges), 273.2 (area education agencies) and 273.1 (K-12 public schools). For purposes of this paragraph, "trailing wages" means previously earned wage payments made to such employees of a school corporation after the first month of entitlement. This exception does not apply

to hourly employees, including those who make arrangements with their employers to hold back hourly wages for payment at a later date, to employees who are placed on sick or disability leave or leave of absence, or to employees who receive lump sum leave, vacation leave, early retirement incentive pay or any other lump sum payments in installments.

For all employees of all IPERS covered employers who terminate employment in January 2003, or later, if the final paycheck is paid within the same quarter or within one quarter after termination and wages are reported under the normal pay schedule, the first month of entitlement shall be the month following termination. However, if the last paycheck is paid more than one quarter after the termination, the first month of entitlement shall be the first month after the employee is paid the last paycheck. Under no circumstances shall such trailing wages result in more than one quarter of service credit being added to retiring members' earning records.

**11.3(3)** *Survival into designated FME.* To be eligible for a monthly retirement benefit, the member must survive into the designated first month of entitlement. If the member dies prior to the first month of entitlement, the member's application for monthly benefits is canceled and the distribution of the member's account is made pursuant to Iowa Code section 97B.52. Cancellation of the application shall not invalidate a beneficiary designation. If the application is dated later in time than any other designations, IPERS will accept the designation in a canceled application as binding until a subsequent designation is filed.

**11.3(4)** *Members retiring under the rule of 88.* The first month of entitlement of a member qualifying under the rule of 88 shall be the first of the month when the member's age as of the last birthday and years of service equal 88. The fact that a member's birthday allowing a member to qualify for the rule of 88 is the same month as the first month of entitlement does not affect the retirement date.

**495—11.4(97B) Termination of monthly retirement allowance.** A member's retirement benefit shall terminate after payment is made to the member for the entire month during which the member's death occurs. Death benefits shall begin with the month following the month in which the member's death occurs.

Upon the death of the retired member, IPERS will reconcile the decedent's account to determine if an overpayment was made to the retired member and if further payment(s) is due to the retired member's named beneficiary, contingent annuitant, heirs at law or estate. If an overpayment has been made to the retired member, IPERS will determine if steps should be taken to seek collection of the overpayment from the named beneficiary, contingent annuitant, estate, heirs at law, or other interested parties.

**495—11.5(97B) Bona fide retirement and bona fide refund.**

**11.5(1)** *Bona fide retirement—general.* To receive retirement benefits, a member under the age of 70 must officially leave employment with all IPERS covered employers, give up all rights as an employee, and complete a period of bona fide retirement. A period of bona fide retirement means four or more consecutive calendar months for which the member qualifies for monthly retirement benefit payments. The qualification period begins with the member's first month of entitlement for retirement benefits as approved by IPERS. A member may not return to covered employment before filing a completed application for benefits. Notwithstanding the foregoing, the continuation of group insurance coverage at employee rates for the remainder of the school year for a school employee who retires following completion of services by that individual shall not cause that person to be in violation of IPERS' bona fide retirement requirements.

A member will not be considered to have a bona fide retirement if the member is a school or university employee and returns to work with the employer after the normal summer vacation. In other positions, temporary or seasonal interruption of service which does not terminate the period of employment does not constitute a bona fide retirement. A member also will not be considered to have a bona fide retirement if the member has, prior to or during the member's first month of entitlement, entered into contractual arrangements with the employer to return to employment after the expiration of the four-month bona fide retirement period.

Effective July 1, 1990, a school employee will not be considered terminated if, while performing the normal duties, the employee performs for the same employer additional duties which take the employee beyond the expected termination date for the normal duties. Only when all the employee's compensated duties cease for that employer will that employee be considered terminated.

The bona fide retirement period will be waived, however, if the member is elected to public office which term begins during the normal four-month bona fide retirement period. This waiver does not apply if the member was an elected official who was reelected to the same position for another term. The bona fide retirement period will also be waived for state legislators who terminate their nonlegislative employment and the IPERS coverage for their legislative employment and begin retirement but wish to continue with their legislative duties.

A member will have a bona fide retirement if the member returns to work as an independent contractor with a public employer during the four-month qualifying period. Independent contractors are not covered under IPERS.

Effective July 1, 1998, through June 30, 2000, a member does not have a bona fide retirement until all employment with covered employers, including employment which is not covered by 495—Chapter 4, is terminated and the member receives at least four monthly benefit payments. In order to receive retirement benefits, the member must file a completed application for benefits with IPERS before returning to any employment with the same employer.

Effective July 1, 2000, a member does not have a bona fide retirement until all employment with covered employers, including employment which is not covered under this chapter, is terminated for at least one month, and the member does not return to covered employment for an additional three months. In order to receive retirement benefits, the member must file a completed application for benefits before returning to any employment with a covered employer.

**11.5(2)** *Bona fide retirement—licensed health care professionals.* For retirees whose first month of entitlement is no earlier than July 2004 and no later than June 2014, a retiree who is reemployed as a "licensed health care professional" by a "public hospital" does not have a bona fide retirement until all employment with covered employers is terminated for at least one calendar month. In order to receive retirement benefits, the member must file a completed application for benefits form before returning to any employment with a covered employer.

"Licensed health care professional" means a public employee who is a physician, surgeon, podiatrist, osteopath, psychologist, physical therapist, physical therapist assistant, nurse, speech pathologist, audiologist, occupational therapist, respiratory therapist, pharmacist, social worker, dietitian, mental health counselor, or physician assistant who is required to be licensed under Iowa Code chapter 147.

"Public hospital" means a governmental entity of a political subdivision of the state of Iowa that is authorized by legislative authority. For purposes of this subrule, a "public hospital" must also meet the requirements of Iowa Code section 249J.3. Under Iowa Code section 249J.3, a "public hospital" must be licensed pursuant to Iowa Code chapter 135B and governed pursuant to Iowa Code chapter 145A (merged hospitals), Iowa Code chapter 347 (county hospitals), Iowa Code chapter 347A (county hospitals payable from revenue), or Iowa Code chapter 392 (creation by city of a hospital or health care facility). For the purposes of this definition, "public hospital" does not include a hospital or medical care facility that is funded, operated, or administered by the Iowa department of human services, Iowa department of corrections, or board of regents, or the Iowa Veterans Home.

A "public hospital" possesses the powers conferred upon it by statute, the Iowa Constitution, and regulatory provisions that are unique to governmental entities and hospitals. For example, a "public hospital" may finance its activities by tax levies or the issuance of bonds, condemn property, hold elections, and join forces with other governmental entities in cooperative ventures that are authorized under Iowa Code chapter 28D and Iowa Code chapter 28E. "Public hospitals" are subject to scrutiny by the public by complying with Iowa Code chapter 21 (open meetings Act) and Iowa Code chapter 22 (open records Act). Public employees of a "public hospital" are covered by Iowa Code chapter 20 (public employment relations Act). A "public hospital" can be distinguished from a profit or not-for-profit hospital by examining whether the focus of the hospital is community service with profits

being applied not to rates of return to investors, but to enhance community services, facility upgrading, or subsidized care for persons unable to pay the full cost of service.

This subrule only applies to reemployments that meet all the foregoing requirements and in addition occur following a "complete termination of employment." A "complete termination of employment" means: (1) the employer must post the opening and conduct a job search; (2) the retired member must receive all termination payouts that are mandatory for other terminated employees of that employer; (3) the retired member must give up all perquisites of seniority, to the extent applicable to all other terminated employees of that employer; and (4) the retired member must not enter into a reemployment agreement with the prior employer or another public hospital as defined in this subrule prior to or during the first month of entitlement.

**11.5(3)** *Bona fide refund.* The 30-day bona fide refund period shall be waived for an elected official covered under Iowa Code section 97B.1A(8)*"a"*(1), and for a member of the general assembly covered under Iowa Code section 97B.1A(8)*"a"*(2), when the elected official or legislator notifies IPERS of the intent to terminate IPERS coverage for the elective office and, at the same time, terminates all other IPERS covered employment prior to the issuance of the refund. Such an official may remain in the elective office and receive an IPERS refund without violating IPERS' bona fide refund rules. If such elected official terminates coverage for the elective office and also terminates all other IPERS covered employment but is then reemployed in covered employment, and has not received a refund as of the date of hire, the refund shall not be made. Furthermore, if such elected official is reemployed in covered employment, the election to revoke IPERS coverage for the elective position shall remain in effect, and the public official shall not be eligible for new IPERS coverage for such elected position.

The prior election to revoke IPERS coverage for the elected position shall also remain in effect if such elected official is reelected to the same position without an intervening term out of office. The waiver granted in this subrule shall be applicable to such elected officials who were in violation of the prior bona fide refund rules on and after November 1, 2002, when such individuals have not repaid the previously invalid refund.

If a member takes a refund in violation of the bona fide refund requirements of Iowa Code section 97B.53(4), the member shall have 30 days from the date of written notice by IPERS to repay the refund in full without interest. Thereafter, in order to receive service credit for the period covered by the refund, the member shall be required to buy back the period of service at its full actuarial cost.

**11.5(4)** *Part-time appointed members of boards or commissions receiving minimal noncovered wages.* Solely for purposes of determining whether a member has severed all employment with all covered employers and has remained out of employment as required under Iowa Code section 97B.52A, persons who have been appointed as part-time members of boards or commissions prior to or during their first month of entitlement and who receive only per diem and reimbursements for reasonable business expenses for such positions will be deemed not to be in employment prohibited under Iowa Code section 97B.52A.

For purposes of this subrule, per diem shall not exceed the amount authorized under Iowa Code section 7E.6(1)*"a"* for members of boards, committees, commissions, and councils within the executive branch of state government. This limit shall apply regardless of whether or not the position in question is within the executive branch of state government.

Members of boards and commissions not exempted under this subrule include: (a) those who are entitled to the payment of per diem regardless of attendance at board or commission meetings, and (b) those who would have received per diem in excess of the amount authorized under Iowa Code section 7E.6(1)*"a"* were it not for an agreement by the member to waive such compensation.

Persons appointed as part-time board or commission members who receive only per diem as set forth above and reimbursements of reasonable business expenses may continue in or accept appointments to such positions without violating the bona fide retirement rules under Iowa Code section 97B.52A.

**11.5(5)** *Members of the national guard who are called into state active duty.* Effective May 25, 2008, members of the national guard who are called into state active duty as defined in Iowa Code section 29A.1 in noncovered positions during the required period of complete severance will not be in violation of the

bona fide retirement requirements of Iowa Code section 97B.52A as amended by 2010 Iowa Acts, House File 2518, section 33.
[**ARC 8929B**, IAB 7/14/10, effective 6/21/10; **ARC 9068B**, IAB 9/8/10, effective 10/13/10; **ARC 0662C**, IAB 4/3/13, effective 5/8/13]

**495—11.6(97B) Payment processing and administration.**

**11.6(1)** *Monthly paper warrants processing fee.* Effective July 1, 2005, IPERS shall charge a per-warrant processing fee to members who choose to receive paper warrants in lieu of electronic deposits of their monthly retirement allowance. The fee may be waived if the person establishes that it would be an undue hardship for the person to do what is necessary to receive payment of the person's IPERS monthly retirement allowance by electronic deposit. The processing fee will be deducted from the member's retirement allowance on a posttax basis.

For purposes of this subrule, a member claiming undue hardship must establish that the cost normally assessed for the processing of paper warrants would be unduly burdensome because of the member's limited income, or is otherwise financially burdensome or physically impracticable.

**11.6(2)** *Repeated requests for replacement warrants.* Effective July 1, 2002, for a member or beneficiary who, due to the member's or beneficiary's own actions or inactions, has benefits warrants replaced twice in a six-month period, except when the need for a replacement warrant is caused by IPERS' failure to mail to the address specified by the recipient, payment shall be suspended until such time as the recipient establishes a direct deposit account in a bank, credit union or similar financial institution and provides IPERS with the information necessary to make electronic transfer of said monthly payments. Persons subject to said cases may be required to provide a face-to-face interview and additional documentation to prove that such a suspension would result in an undue hardship.

**11.6(3)** *Forgery claims.* When a forgery of a warrant issued in payment of an IPERS refund or benefit is alleged, the claimant must complete and sign an affidavit before a notary public that the endorsement is a forgery. A supplementary statement must be attached to the affidavit setting forth the details and circumstances of the alleged forgery.

**11.6(4)** *Rollover fees.* Effective January 1, 2007, if the recipient of a lump-sum distribution which qualifies to be rolled over requests that a rollover be made to more than one IRA or other qualified plan, IPERS may assess a $5 administrative fee for each additional rollover beyond the first one. The fee will be deducted from the gross amount of each distribution, less federal and state income tax.

**11.6(5)** *Offsets against amounts payable.* IPERS may, with or without consent and upon reasonable proof thereof, offset amounts currently payable to a member or the member's designated beneficiaries, heirs, assigns or other successors in interest by the amount of IPERS benefits paid in error to or on behalf of such member or the member's designated beneficiaries, heirs, assigns or other successors in interest.

**11.6(6)** *Lump sum paper warrants processing fee.* Effective April 1, 2012, and thereafter, IPERS shall charge $1 for paper warrants issued in payment of all nonrecurring lump sum distributions. If a nonrecurring lump sum distribution is followed by a supplemental lump sum distribution due to the reporting of additional covered wages, the $1 processing fee shall also be charged. This $1 processing fee shall not apply to a direct rollover described under Iowa Code section 97B.53B (however, processing fees may be charged for multiple rollover requests), lump sum mandatory account distributions required under Iowa Code section 97B.48(5), mandatory lump sum distributions required under Internal Revenue Code Section 401(9), or warrants reissued in forged endorsement or other fraudulent payment situations.
[**ARC 0017C**, IAB 2/22/12, effective 3/28/12]

**495—11.7(97B) Overpayment of IPERS benefits.**

**11.7(1)** *Overpayments—general.*

*a.* An "overpayment" means a payment of money by IPERS that results in a recipient receiving a higher payment than the recipient is entitled to under the provisions of Iowa Code chapter 97B.

*b.* A "recipient" is a person or beneficiary, heir, assign, or other successor in interest who receives an overpayment from an IPERS benefit and is liable to repay the amount(s) upon receipt of a written explanation and request for the amounts to be repaid.

*c.* If IPERS determines that the cost of recovering the amount of an overpayment is estimated to exceed the overpayment, the repayment may be deemed to be unrecoverable.

*d.* If the overpayment is equal to or less than $50 and cannot be recovered from other IPERS payments, IPERS may limit its recovery efforts to written requests for repayment and other nonjudicial remedies.

**11.7(2)** *Overpayment made to a retired member.* A retired member shall receive written notice of overpayment, including the reason for the overpayment, the amount of the overpayment, and a limited opportunity to repay the overpayment in full without interest. If a retired member repays an overpayment in full within 30 days after the date of the notice, there will be no interest charge. A retired member may repay an overpayment out of pocket or direct IPERS to recover the overpayment from future retirement benefit payments, or a combination of both. If the retired member cannot repay an overpayment in full, either out of pocket or from the next monthly installment of retirement benefits, or both, interest shall be charged. A retired member who cannot repay the full amount of the overpayment within 30 days after the date of the notice must enter into an agreement with IPERS to make monthly installment payments, or to have the overpayment offset against future monthly benefit payments or death benefits, if any, and authorize any unpaid balance as a first priority claim in the recipient's estate.

**11.7(3)** *Overpayment made to a person other than a retired member.* A recipient other than a retired member, except a recipient listed in subrule 11.7(4), shall receive written notice of overpayment, including the reason for the overpayment, the amount of the overpayment, and the opportunity to repay the overpayment in full without interest. If such a recipient repays an overpayment in full within 30 days after the date of the notice, there will be no interest charge. If such a recipient cannot repay an overpayment in full within 30 days after the date of the notice, interest shall be charged. If repayment in full cannot be made within 30 days, such a recipient shall make repayment arrangements subject to IPERS' approval within 30 days of the written notice and request for repayment.

If the overpayment recipient cannot be located to receive notice of the overpayment at the recipient's last-known address, IPERS shall, after trying to locate the person, consider the recipient to have waived entitlement to the quarters covered by the refund.

**11.7(4)** *Overpayment made to a person who violates a bona fide severance period.* If a recipient takes a refund and does not complete the required period of severance, the recipient shall receive a written notice of overpayment, including the reason for the overpayment, the amount of the overpayment, and the opportunity to repay the overpayment in full without interest. The recipient shall have 30 days after the date of notice to repay the full amount of the refund without interest. If the repayment is not made within 30 days after the date of notice, the person shall receive no credit for the period of employment covered by the refund and shall be required to buy back the refund at its actuarial cost if the member later decides that the member wants service credit for any portion of the period of employment covered by the refund.

**11.7(5)** *Interest charges.*

*a. Overpayment not fraudulent.* If the overpayment of benefits, other than an overpayment that results from a violation described in subrule 11.7(4), was not the result of wrongdoing, negligence, misrepresentation, or omission of the recipient, the recipient is liable to pay interest charges at the rate of 5 percent, or the rate IPERS determines, on the outstanding balance, beginning 30 days after the date of notice of the overpayment(s) is provided by IPERS.

*b. Overpayments in violation of Iowa Code section 97B.40 or 715A.8.* If the overpayment of benefits, other than an overpayment that results from a violation described in subrule 11.7(4), was the result of wrongdoing, negligence, misrepresentation, or omission of the recipient, the recipient is liable to pay interest charges at the rate of 7.5 percent on the outstanding balance, beginning on the date of the overpayment(s).

*c. Overpayments that result in a judgment.* In addition to other remedies, IPERS may file a civil action to recover overpayments, and the interest rate may be set by the court.

**11.7(6)** *Recovery of overpayment from a deceased recipient.* If a recipient dies prior to the full repayment of an erroneous overpayment of benefits, IPERS shall be entitled to apply to the estate of the deceased to recover the remaining balance.

**11.7(7)** *Offsets against amounts payable.* IPERS may, in addition to other remedies and after notice to the recipient, request an offset against amounts owing to the recipient by the state according to the offset procedures pursuant to Iowa Code sections 8A.504 and 421.17.

**11.7(8)** *Rights of appeal.* A recipient who is notified of an overpayment and required to make repayments under this rule may appeal IPERS' determination in writing to the chief executive officer. The written request must explain the basis of the appeal and must be received by IPERS' office within 30 days of overpayment notice pursuant to 495—Chapter 26.

**11.7(9)** *Release of overpayment.* IPERS may release a recipient from liability to repay an overpayment, in whole or in part, if IPERS determines that the receipt of overpayment is not the fault of the recipient, and that it would be contrary to equity and good conscience to collect the overpayment. No release of an individual recipient's obligation to repay an overpayment shall stand as precedent for release of another recipient's obligation to repay an overpayment.

[**ARC 8601B**, IAB 3/10/10, effective 4/14/10; **ARC 1887C**, IAB 2/18/15, effective 3/25/15]

These rules are intended to implement Iowa Code sections 97B.4, 97B.9A, 97B.15, 97B.25, 97B.38, 97B.40, 97B.45, 97B.47, 97B.48, 97B.48A, 97B.49A to 97B.49I, 97B.50, 97B.51, 97B.52, 97B.52A, 97B.53, and 97B.53B.

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# CHAPTER 12
# CALCULATION OF MONTHLY RETIREMENT BENEFITS

[Prior to 11/24/04, see 581—Ch 21]

**495—12.1(97B) General.**

**12.1(1)** *Formula benefit versus money purchase benefit.* If a member is vested by years of service credit in IPERS, a monthly payment allowance will be paid in accordance with the formulas set forth in Iowa Code sections 97B.49A through 97B.49I, the applicable paragraphs of this chapter, and the option the member elects pursuant to Iowa Code section 97B.51(1). IPERS shall determine on the applicable forms which designated fractions of a member's monthly retirement allowance payable to contingent annuitants shall be provided as options under Iowa Code section 97B.51(1). Any option elected by a member under Iowa Code section 97B.51(1) must comply with the requirements of the Internal Revenue Code that apply to governmental pension plans, including but not limited to Internal Revenue Code Section 401(a)(9). If a member is not vested by years of service credit in IPERS, the benefit receivable will be computed on a money purchase basis, with reference to annuity tables used by IPERS in accordance with the member's age and option choice.

**12.1(2)** *Reduction for early retirement.*

*a.* Effective July 1, 1988, through December 31, 2000, a member's benefit formula will be reduced by .25 percent for each month the member's retirement precedes the normal retirement date, as defined in Iowa Code section 97B.45 excluding section 97B.45(4). The following are situations in which a member is considered to be taking early retirement:

(1) If a member has not attained the age of 65 in the member's first month of entitlement and has less than 20 years of service; or

(2) If a member has not attained the age of 62 in the month of the member's retirement and has 20 years of service.

*b.* Effective July 1, 1997, a member shall be eligible to receive monthly retirement benefits with no age reduction effective the first of the month in which the member's age on the last birthday and the member's years of service equal or exceed 88, provided that the member is at least the age of 55.

*c.* Effective July 1, 1991, a member qualifying for early retirement due to disability under Iowa Code section 97B.50 shall not be subject to a reduction in benefits due to age.

*d.* If a member retires with at least 20 years of service but has not attained the age of 62, the age reduction shall be calculated by deducting .25 percent per month for each month that the first month of entitlement precedes the month in which the member attains the age of 62. If a member retires with less than 20 years of service, the age reduction shall be calculated by deducting .25 percent per month for each month that the first month of entitlement precedes the month in which the member attains the age of 65.

*e.* Effective January 1, 2001, the age reduction shall be calculated by deducting .25 percent per month for each month that the first month of entitlement precedes the earliest possible normal retirement date for that member based on the age and years of service at the member's actual retirement.

*f.* For the portion of the member's retirement allowance based on service through June 30, 2012, the early retirement reduction shall be calculated as provided in paragraphs 12.1(2)*"a"* through *"e."* For the portion of the retirement allowance based on years of service beginning July 1, 2012, and later, the member's early retirement reduction shall be one-half of one percent for each month that the early retirement precedes the date the member attains age 65.

**12.1(3)** *Early retirement date.* A member's early retirement date shall be the first day of the month of the fifty-fifth birthday or any following month before the normal retirement date, provided that date is after the member's termination date.

**12.1(4)** *Members employed before January 1, 1976, and retiring after January 1, 1976.* Members employed before January 1, 1976, and retiring after January 1, 1976, with four or more complete years of membership service shall be eligible to receive the larger of a monthly formula benefit equal to the member's total covered wages multiplied by one-twelfth of one and fifty-seven hundredths percent,

multiplied by the percentage calculated in subrule 12.1(2), if applicable, or a benefit as calculated in subrule 12.1(6).

**12.1(5)** *Members employed before January 1, 1976, who qualified for prior service credit.* Members employed before January 1, 1976, who qualified for prior service credit shall be eligible to receive a monthly formula benefit of eight-tenths of one percent multiplied by each year of prior service multiplied by the monthly rate of the member's total remuneration during the 12 consecutive months of prior service for which the total remuneration was the highest, disregarding any monthly rate amount in excess of $250, plus three-tenths of one percent of the monthly rate amount not in excess of $250 for each year in which accrued liability for benefit payments created by the abolished system is funded.

**12.1(6)** *Benefit formulas for members retiring on or after July 1, 1994.*

*a.* For each active member retiring on or after July 1, 1994, with four or more complete years of service, the monthly benefit will be equal to one-twelfth of an amount equal to 60 percent of the three-year average covered wage multiplied by a fraction of years of service.

*b.* For all active and inactive vested members, the monthly retirement allowance shall be determined on the basis of the formula in effect on the date of the member's retirement. If the member takes early retirement, the benefit shall be adjusted as provided in subrule 12.1(2).

*c.* Effective July 1, 1996, through June 30, 1998, in addition to the 60 percent multiplier identified above, members who retire with years of service in excess of their "applicable years" shall have the percentage multiplier increased by 1 percent for each year in excess of their "applicable years," not to exceed an increase of 5 percent. For regular members, "applicable years" means 30 years; for protection occupation members, "applicable years" means 25 years; for sheriffs, deputy sheriffs, and airport firefighters, "applicable years" means 22 years.

*d.* Effective July 1, 1998, sheriffs, deputy sheriffs, and airport firefighters who retire with years of service in excess of their applicable years shall have their percentage multiplier increased by 1.5 percent for each year in excess of their applicable years, not to exceed an increase of 12 percent.

*e.* Effective July 1, 2000, the "applicable years" and increases in the percentage multiplier for years in excess of the applicable years for protection occupation members shall be determined under Iowa Code section 97B.49B(1), as set forth in paragraph *"f"* below.

*f.* For special service members covered under Iowa Code section 97B.49B, the applicable percentage and applicable years for members retiring on or after July 1, 2000, shall be determined as follows:

(1) For each member retiring on or after July 1, 2000, and before July 1, 2001, 60 percent plus, if applicable, an additional .25 percent for each additional quarter of eligible service beyond 24 years of service (the "applicable years"), not to exceed 6 additional percentage points;

(2) For each member retiring on or after July 1, 2001, and before July 1, 2002, 60 percent plus, if applicable, .25 percent for each additional quarter of eligible service beyond 23 years of service (the "applicable years"), not to exceed a total of 7 additional percentage points;

(3) For each member retiring on or after July 1, 2002, and before July 1, 2003, 60 percent plus, if applicable, .25 percent for each additional quarter of eligible service beyond 22 years of service (the "applicable years"), not to exceed a total of 8 additional percentage points;

(4) For each member retiring on or after July 1, 2003, 60 percent plus, if applicable, an additional .375 percent for each additional quarter of eligible service beyond 22 years of service (the "applicable years"), not to exceed a total of 12 additional percentage points.

(5) Regular service does not count as "eligible service" in determining a special service member's applicable percentage.

**12.1(7)** *Average covered wages.*

*a.* "Three-year average covered wage" means a member's covered calendar year wages averaged for the highest three years of the member's service. However, if a member's final quarter of a year of employment does not occur at the end of a calendar year, IPERS may determine the wages for the third year by computing the final quarter or quarters of wages to complete the year. The computed year wages shall not exceed the maximum covered wage in effect for that calendar year. Furthermore, for members whose first month of entitlement is January of 1999 or later, the computed year shall not exceed

the member's highest actual calendar year of covered wages by more than 3 percent. Effective July 1, 2007, a member's high three-year average wage shall be the greater of (1) the member's high three-year average covered wage based on covered wages reported through June 30, 2007; or (2) the member's high three-year average covered wage after application of the antispiking control as described in paragraph *"c"* below.

For members whose first month of entitlement is January 1995 or later, a full third year will be created when the final quarter or quarters reported are combined with a computed average quarter to complete the last year. The value of this average quarter will be computed by selecting the highest covered wage year not used in the computation of the three high years and dividing the covered salary by four quarters. This value will be combined with the final quarter or quarters to complete a full calendar year. If the member's final quarter of wages will reduce the three-year average covered wage, it can be dropped from the computation. However, if the covered wages for that quarter are dropped, the service credit for that quarter will be forfeited as well. If the final quarter is the first quarter of a calendar year, those wages must be used in order to give the member a computed year. The three-year average covered wage cannot exceed the highest maximum covered wages in effect during the member's service.

If the three-year average covered wage of a member who retires on or after January 1, 1997, and before January 1, 2002, exceeds the limits set forth in paragraph *"b"* below, the longer period specified in paragraph *"b"* shall be substituted for the three-year averaging period described above. No quarters from the longer averaging period described in paragraph *"b"* shall be combined with the final quarter or quarters to complete the last year.

*b.* For the persons retiring during the period beginning January 1, 1997, and ending December 31, 2001, the three-year average covered wage shall be computed as follows:

(1) For a member who retires during the calendar year beginning January 1, 1997, and whose three-year average covered wage at the time of retirement exceeds $48,000, the member's covered wages averaged for the highest four years of the member's service or $48,000, whichever is greater.

(2) For a member who retires during the calendar year beginning January 1, 1998, and whose three-year average covered wage at the time of retirement exceeds $52,000, the member's covered wages averaged for the highest five years of the member's service or $52,000, whichever is greater.

(3) For a member who retires during the calendar year beginning January 1, 1999, and whose three-year average covered wage at the time of retirement exceeds $55,000, the member's covered wages averaged for the highest six years of the member's service or $55,000, whichever is greater.

(4) For a member who retires on or after January 1, 2000, but before January 1, 2001, and whose three-year average covered wage at the time of retirement exceeds $65,000, the member's covered wages averaged for the highest six years of the member's service or $65,000, whichever is greater. For the calendar year beginning January 1, 2001, the six-year wage averaging trigger shall be increased to $75,000.

(5) Effective January 1, 2002, the computation of average covered wages shall be as provided in paragraph 12.1(7)*"a."*

For purposes of paragraph 12.1(7)*"b,"* the highest years of the member's service shall be determined using calendar years and may be determined using one computed year. The computed year shall be calculated in the manner and subject to the restrictions provided in paragraph 12.1(7)*"a."*

*c.* Antispiking limit on the growth of a member's high three-year average.

(1) Selection of the control year shall give highest priority to calendar years of wages in which there are four quarters of service credit for wages on file not used in the high three-year average wage calculation. For example, if the member receives $20,000 of wages for a calendar year with four quarters of service credit for wages, and the member also has received $30,000 of wages for a calendar year with three quarters of service credit for wages, the control year selection process shall give preference to the calendar year with $20,000 of reported wages.

(2) If there is a calendar year of covered wages outside the high three-year average wage calculation that has four quarters, but the covered wages for that year are less than the covered wages for the fourth highest calendar year of covered wages, and that fourth highest calendar year of covered wages does not have four quarters of service credit for wages, the control year will be the lowest of the high three calendar

years of wages with service credits for wages in all four quarters being used in the high three-year average wage calculation.

(3) "Service credit for wages" means service credit recorded for:

1. Quarters in which the member receives covered wages from covered employment.

2. Quarters in which the member is credited with covered wages due to a military leave.

3. Quarters in which the member would have had covered wages but for the application of the IRS covered wage limitations.

4. Quarters in which an employee of a nine-month institution receives service credit for a qualifying leave of absence under 495—subrule 7.1(2).

5. Quarters in which a legislator, legislative employee, or elected official receives service credit for employment.

(4) If none of the calendar years of wages that fall outside of the high three-year average wage calculation have service credit for wages reported in all four quarters, the control year will then be the lowest of the high three calendar years of wages with service credit for wages in all four quarters being used in the high three-year average wage calculation.

(5) If none of the wage years used in the high three-year average wage calculation have service credits for wages reported in all four quarters, the control year will then revert to the highest calendar year of wages not included in the high three-year average wage calculation, regardless of whether there are fewer than four quarters with service credits for wages on file.

(6) For high three-year average wage calculations that utilize the computed year, the control year may be the calendar year from which the "average quarters" used in the computed year are drawn. However, the control year cannot be the computed year, as the computed year will never be a calendar year with service credit for wages in all four quarters.

*d.* Effective July 1, 2012, a nonvested member's average covered wage shall be the member's five-year average covered wage calculated as provided in Iowa Code section 97B.1A(10A)*"a."*

*e.* Effective July 1, 2012, for members vested as of June 30, 2012, the member's average covered wage shall be the greater of the member's three-year average covered wage calculated as provided under paragraphs 12.1(7)*"a"* through *"c,"* or the member's five-year average covered wage calculated as provided in Iowa Code section 97B.1A(10A)*"a."*

[**ARC 8601B**, IAB 3/10/10, effective 4/14/10; **ARC 0017C**, IAB 2/22/12, effective 3/28/12; **ARC 1348C**, IAB 2/19/14, effective 3/26/14; **ARC 1887C**, IAB 2/18/15, effective 3/25/15]

**495—12.2(97B) Initial benefit determination.**

**12.2(1)** The initial monthly benefit for the retired member will be calculated utilizing the wages that have been reported as of the member's retirement and subject to the requirements of subrule 12.1(7). When the final quarter(s) of wages is reported for the retired member, a recalculation of benefits will be performed by IPERS to redetermine the member's benefit amount. In cases where the recalculation determines that the benefit will be changed, the adjustment in benefits will be made retroactive to the first month of entitlement. The wages for the "computed year" shall not exceed the highest covered wage ceiling in effect during the member's period of employment.

**12.2(2)** In cases where the member's final quarter's wages have been reported to IPERS prior to retirement, the original benefit will be calculated utilizing all available wages.

**12.2(3)** The Option 1 death benefit amount cannot exceed the member's investment and cannot lower the member's benefit below the minimum distribution required by federal law.

**495—12.3(97B) Minimum benefits.** Effective January 1, 1997, those members and beneficiaries of members who retired prior to July 1, 1990, and who upon retirement had years of service equal to or greater than 10, will receive a minimum benefit as follows.

**12.3(1)** The minimum benefit is $200 per month for those members with 10 years of service who retired under Option 2. The minimum shall increase by $10 per year or $2.50 per each additional quarter of service to a maximum benefit of $400 per month for members with 30 years of service. No increase is payable for years in excess of 30. The minimum benefit will be adjusted by a percentage that reflects option choices other than Option 2, and a percentage that reflects any applicable early retirement penalty.

**12.3(2)** In determining minimum benefits under this rule, IPERS shall use only the years of service the member had at first month of entitlement (FME). Reemployment periods and service purchases completed after FME shall not be used to determine eligibility.

**12.3(3)** The adjusted minimum benefit amount shall be determined using the option and early retirement adjustment factors set forth below.

*a.* The option adjustment factor is determined as follows:

| | |
|---|---|
| Option 1 | .94 |
| Option 2 | 1.00 |
| Option 3 | 1.00 |
| Option 4 (100%) | .87 |
| Option 4 (50%) | .93 |
| Option 4 (25%) | .97 |
| Option 5 | .97 |

*b.* The early retirement adjustment factor is determined as follows:

(1) There is no early retirement adjustment if the member's age at first month of entitlement equals or exceeds 65, or if the member's age at first month of entitlement is at least 62 and the member had 30 or more years of service.

(2) The early retirement adjustment for a member having 30 years of service whose first month of entitlement occurred before the member attained age 62 is .25 percent per month for each month the first month of entitlement precedes the member's sixty-second birthday.

(3) The early retirement adjustment for a member having less than 30 years of service whose first month of entitlement occurred before the member attained age 65 is .25 percent per month for each month the first month of entitlement precedes the member's sixty-fifth birthday.

(4) IPERS shall calculate the early retirement adjustment factor to be used in subrule 12.3(4) as follows:

$$100\% - \text{early retirement adjustment percentage} = \text{early retirement adjustment factor}$$

(5) The early retirement adjustment shall not be applied to situations in which the member's retirement was due to a disability that qualifies under Iowa Code section 97B.50 or 97B.50(2).

**12.3(4)** IPERS shall use the following formula to calculate the adjusted minimum benefit:

$$\begin{array}{c}\text{unadjusted}\\ \text{minimum benefit}\end{array} \times \begin{array}{c}\text{option adjustment}\\ \text{factor}\end{array} \times \begin{array}{c}\text{early retirement}\\ \text{adjustment factor}\end{array} = \begin{array}{c}\text{adjusted}\\ \text{minimum benefit}\end{array}$$

**12.3(5)** IPERS shall compare the member's current benefit to the adjusted benefit determined as provided in subrules 12.3(3) and 12.3(4). If the member's current benefit is greater than or equal to the adjusted minimum benefit, no change shall be made. Otherwise, the member shall receive the adjusted minimum benefit.

**12.3(6)** Effective January 1, 1999, the monthly allowance of certain retired members and their beneficiaries, including those whose monthly allowance was increased by the operation of subrules 12.3(3) to 12.3(5), shall be increased. If the member retired from the system before July 1, 1986, the monthly allowance currently being received by the member or the member's beneficiary shall be increased by 15 percent. If the member retired from the system on or after July 1, 1986, and before July 1, 1990, the monthly allowance currently being received by the member or the member's beneficiary shall be increased by 7 percent.

**495—12.4(97B) Hybrid formula for members with more than one type of service credit.**

**12.4(1)** *Eligibility.* Effective July 1, 1996, members having both regular and special service (as defined in Iowa Code section 97B.1A(22)) shall receive the greater of the benefit amount calculated under this subrule or the benefit amount calculated under the applicable nonhybrid benefit formula.

*a.* Members who are vested by service as defined in Iowa Code section 97B.1A(25)*"d"* may utilize the hybrid formula.

*b.* The following classes of members are not eligible for the hybrid formula:

(1) Members who have only regular service credit.

(2) Members who have 22 years of special service credit.

(3) Members who have 30 years of regular service.

(4) Members who are not vested by service as defined in Iowa Code section 97B.1A(25)*"d."*

**12.4(2)** *Assumptions.* IPERS shall utilize the following assumptions in calculating benefits under this rule.

*a.* The member's average covered wage shall be determined in the same manner as it is determined for the nonhybrid formula.

*b.* Increases in the benefit formula under this rule shall be determined as provided under Iowa Code section 97B.49D. The percentage multiplier shall only be increased for total years of service over 30.

*c.* Years of service shall be utilized as follows:

(1) Quarters which have two or more occupation class codes shall be credited as the class that has the highest reported wage for said quarter. A member shall not receive more than one quarter of credit for any calendar quarter, even though more than one type of service credit is recorded for that quarter.

(2) Quarters shall not be treated as special service quarters unless the applicable employer and employee contributions have been made.

**12.4(3)** *Years of service fraction not to exceed one.*

*a.* In no event shall a member's years of service fraction under the hybrid formula exceed, in the aggregate, one.

*b.* If the years of service fraction does, in the aggregate, exceed one, the member's quarters of service credit shall be reduced until the member's years of service fraction equals, in the aggregate, one.

*c.* Service credit shall first be subtracted from the member's regular service credit and, if necessary, shall next be subtracted from the member's special service credit.

**12.4(4)** *Age reduction.* The portion of the member's benefit calculated under this rule that is based on the member's regular service shall be subject to a reduction for early retirement. In calculating the age reduction to be applied to the portion of the member's benefit based on the member's regular service, the system shall use all quarters of service credit, including both regular and special service quarters.

**12.4(5)** *Calculations.* A member's benefit under the hybrid formula shall be the sum of the following:

*a.* The applicable percentage multiplier divided by 22 times the years of special service credit times the member's high three-year average covered wage, plus

*b.* The applicable percentage multiplier divided by 30 times the years of regular service credit (if any) times the member's high three-year average covered wage minus the applicable wage reduction (if any).

If the sum of the percentages obtained exceeds the applicable percentage multiplier for that member, the percentage obtained above for each class of service shall be subject to reduction so that the total shall not exceed the member's applicable percentage multiplier in the order specified in paragraph 12.4(3)*"c"* of this subrule.

[**ARC 0017C**, IAB 2/22/12, effective 3/28/12]

**495—12.5(97B) Money purchase benefits.**

**12.5(1)** For each member who is vested prior to July 1, 2012, and is retiring prior to July 1, 2012, with less than four complete years of service, a monthly annuity shall be determined by applying the total reserve as of the effective retirement date (plus any retirement dividends standing to the member's

credit on December 31, 1966) to the annuity tables in use by the system according to the member's age (or member's and contingent annuitant's ages, if applicable). If the member's retirement occurs before January 1, 1995, IPERS' revised 6.5 percent tables shall be used. If the member's retirement occurs after December 31, 1994, IPERS' 6.75 percent tables shall be used.

**12.5(2)** For each vested member for whom the present value of future benefits under Option 2 is less than the member reserve as of the effective retirement date, a monthly annuity shall be determined by applying the member reserve to the annuity tables in use by the system according to the member's age (or member's and contingent annuitant's ages, if applicable). If the member's retirement occurs before January 1, 1995, IPERS' revised 6.5 percent tables shall be used. If the member's retirement occurs after December 31, 1994, IPERS' 6.75 percent tables shall be used.

**12.5(3)** For calculations under subrule 12.5(1), the term "total reserve" means the total of the member's investment and the employer's investment as of the effective retirement date, plus any retirement dividends standing to the member's credit as of December 31, 1966. For calculations under subrule 12.5(2), the term "member reserve" means the member's total investment, excluding all other amounts standing to the member's credit.

**12.5(4)** For calculations under subrule 12.5(1), Options 2, 3, 4, 5 and 6 shall be calculated by dividing the member's total reserve by the applicable Option 2, 3, 4, 5 or 6 annuity factor taken from the system's tables to determine the monthly amount. For calculations under subrule 12.5(2), Options 2, 3, 4, 5 and 6 shall be calculated by dividing the member reserve by the applicable Option 2, 3, 4, 5 or 6 annuity factor taken from the system's tables to determine the monthly amount.

**12.5(5)** For Option 1, the cost per $1,000 of death benefit shall be determined according to the system's tables. That cost shall be subtracted from the Option 3 monthly amount to determine the Option 1 monthly benefit amount. The Option 1 death benefit amount shall be reduced as necessary so that the Option 1 monthly benefit amount is not less than one-half of the Option 2 monthly benefit amount.

**12.5(6)** If the member has prior service (service prior to July 4, 1953), the Option 2 benefit amount calculated under subrules 12.5(1) and 12.5(2) shall be calculated by determining the amount of the member's Option 2 benefit based on the member's prior service and the applicable plan formula, plus the amount of the member's Option 2 benefit based on the member's membership service as determined under this rule. The Option 2 benefit amount based on prior service shall be adjusted for early retirement.

**12.5(7)** For members retiring after June 30, 2012, the money purchase benefit calculated pursuant to this rule shall be provided to members who are not vested by service as defined in Iowa Code section 97B.1A(25)*"d."*

[**ARC 0017C**, IAB 2/22/12, effective 3/28/12; **ARC 0662C**, IAB 4/3/13, effective 5/8/13]

**495—12.6(97B) Recalculation for a member aged 70.** A member remaining in covered employment after attaining the age of 70 years may receive a retirement allowance without terminating the covered employment. A member who is in covered employment, attains the age of 70 and begins receiving a retirement allowance must terminate all covered employment before the member's retirement allowance can be recalculated to take into account service after the member's original FME. The termination of employment must be a true severance lasting at least 30 days. The formula to be used in recalculating such a member's retirement allowance depends on the date of the member's FME and the member's termination date, as follows:

If the member is receiving a retirement allowance with an FME prior to July 1, 2000, and terminates covered employment on or after January 1, 2000, the member's retirement formula for recalculation purposes shall be the formula in effect at the time of the member's termination from covered employment or, if later, the date the member applies for a recalculation.

In all other cases, the recalculation for a member aged 70 who retires while actively employed shall use the retirement formula in effect at the time of the member's FME.

Payments under this rule shall begin no earlier than the month following the month of termination, upon IPERS' receipt of a member's application for recalculation.

A member receiving a recalculation under this rule after June 30, 2012, will have the member's average covered wage calculated as follows. IPERS will calculate the average high three covered wage

as of June 30, 2012. IPERS will next calculate the average high five covered wage at the time of the member's termination from covered employment or, if later, the date the member applies for a recalculation. IPERS will determine the benefit amount based on the calculation that produces the greatest benefit to the member.
[**ARC 0662C**, IAB 4/3/13, effective 5/8/13]

**495—12.7(97B) Level payment choice for special service members.** A level payment choice is created effective July 1, 2002. IPERS shall implement the level payment choice by preparing factors to convert nonhybrid IPERS Options 1, 2, 3, 4, and 5 to the level payment choice. The new benefit feature applies solely to special service members, and any reference to members in this rule shall only apply to special service members.

**12.7(1)** *Conversion rights window.* A special service member who qualifies for a July 2002 or later first month of entitlement (FME) may elect to retire under the regular IPERS Option 1, 2, 3, 4 or 5, and later have the member's option converted to the level payment choice. Retroactive adjustments in monthly amounts and death benefits, without interest, shall be provided.

In order to qualify for the conversion and retroactive payments, the member must request the level payment choice in writing no later than six months after the member's first monthly payment. If the member is married, the member's spouse must also consent to the requested change. Election of conversion to the level payment choice shall be irrevocable upon receipt of the first payment under the level payment choice.

A member who has retired under Iowa Code section 97B.49D or under IPERS Option 6 on or after July 1, 2002, and who wishes to receive benefits under this rule may revoke the member's initial election and choose IPERS Option 1, 2, 3, 4, or 5 to be paid as a level payment choice. The conversion to the level payment choice under this subrule is mandatory and irrevocable.

The conversion rights granted in this subrule shall not apply to members whose FME is January 2003 and later. Those members must select the level payment choice at the time they submit an IPERS retirement application.

**12.7(2)** *Member's social security retirement amount.* Calculations of a member's level payment choice shall be based on the member's social security retirement amount at age 62 as verified by Social Security Administration statements provided by the member. No adjustments shall be made if subsequent social security statements indicate an increase in the age 62 social security retirement amount. Verification of the social security benefits shall not precede the member's first month of entitlement by more than 12 months.

**12.7(3)** *Death benefit assumptions.* In preparing level payment choice factors, IPERS shall assume:

*a.* For IPERS Options 1 and 2, death benefits under those options shall not be reduced as a result of a member's attaining the age of 62 and having the member's monthly allowance reduced under this rule.

*b.* For IPERS Options 4 and 5, IPERS shall assume that the contingent annuitant's or beneficiary's monthly payments and death benefits, if any, prior to the date the member attains, or would have attained, age 62 shall be based on the amount that was payable to the member for periods before the member attains, or would have attained, age 62. Beginning with the month after the month that the member attains, or would have attained, age 62, a contingent annuitant's or beneficiary's monthly payments and death benefits, except death benefits under IPERS Options 1 and 2, shall be based on the reduced amount that would have been payable to the member in the month after the month that the member attained age 62.

**12.7(4)** *Favorable experience dividends.* An eligible member's or beneficiary's favorable experience dividend, if any, shall be based on the member's or beneficiary's level payment choice monthly amount as of the preceding December 31.

**12.7(5)** *Prohibitions.* The following special service members shall be prohibited from receiving benefits under this rule:

*a.* Those who retire under Iowa Code section 97B.49D, 97B.50(2), or 97B.50A.

*b.* Those who retire under Option 6.

*c.* Those who request a level payment amount that reflects less than a full offset for the social security retirement amount at age 62.

*d.* Those reemployed in covered employment and subsequently retiring, for the period of reemployment. A member who has elected the level payment choice shall have retirement benefits calculated solely for the period of reemployment, except for vesting credit.

**12.7(6)** *Limit on reductions.* For a member who has substantial noncovered employment, the application of the level payment choice factors shall not reduce the monthly amount payable to a member at age 62 to less than 50 percent of the monthly amount that would have been payable under IPERS Option 2. Accordingly, payments before age 62 to such members shall be reduced in the same manner, with the corresponding adjustments made to death benefits.

**12.7(7)** *Commencement of level payment option reduction.* The monthly benefit of a member who selects the level payment option shall be reduced beginning with the month after the member reaches age 62.

[**ARC 0017C**, IAB 2/22/12, effective 3/28/12; **ARC 1887C**, IAB 2/18/15, effective 3/25/15]

**495—12.8(97B) Reemployment of retired members.**

**12.8(1)** Effective July 1, 1998, the monthly benefit payments for a member under the age of 65 who has a bona fide retirement and is then reemployed in covered employment shall be reduced by 50 cents for each dollar the member earns in excess of the annual limit. Effective July 1, 2002, this reduction is not required until the member earns the amount of remuneration permitted for a calendar year for a person under the age of 65 before a reduction in federal social security retirement benefits is required, or earns $30,000, whichever is greater. The foregoing reduction shall apply only to IPERS benefits payable for the applicable year that the member has reemployment earnings and after the earnings limit has been reached. Said reductions shall be applied as provided in subrule 12.8(2).

Effective January 1, 1991, this earnings limitation does not apply to covered employment as an elected official. A member aged 65 or older who has completed at least four full calendar months of bona fide retirement and is later reemployed in covered employment shall not be subject to any wage-earning disqualification.

**12.8(2)** Beginning on or after July 1, 1996, the retirement allowance of a member subject to reduction pursuant to subrule 12.8(1) shall be reduced as follows:

*a.* A member's monthly retirement allowance in the following calendar year shall be reduced by the excess benefit paid in the preceding year after the excess benefit payment amount has been determined.

*b.* Employers shall be required to complete IPERS wage reporting forms for reemployed individuals which shall reflect the prior year's wage payments on a month-to-month basis. These reports shall be used by IPERS to determine the amount which must be recovered to offset overpayments in the prior calendar year due to reemployment wages.

*c.* The member's overpayment shall be collected as follows:

(1) IPERS will reduce the member's gross monthly benefit by 30 percent until the overpayment is repaid. If the 30 percent reduction will not recover the overpayment by the end of the current calendar year, IPERS will calculate the monthly reduction amount so that the overpayment will be recovered within the current calendar year. Other monthly reduction amounts may be made by an agreement in writing between the member and IPERS; or

(2) A member may elect to make repayments of the overpayment amounts out of pocket in lieu of having the member's monthly benefit reduced. An out-of-pocket repayment may be made in one check or in installments. However, an election to make repayment in installments must be agreed to in writing between the member and IPERS.

(3) If a member dies and the full amount of overpayment determined under this subrule has not been repaid, the remaining amounts shall be deducted from the payments to be made, if any, to the member's designated beneficiary or contingent annuitant. If the member has selected an option under which there are no remaining amounts to be paid, or the remaining amounts are insufficient, the unrecovered amounts shall be a charge on the member's estate.

(4) A member may elect in writing to have the member's monthly retirement allowance suspended in the month in which the member's remuneration exceeds the amount of remuneration permitted under this subrule in lieu of receiving a reduced retirement allowance under subparagraph (1). In order to become effective, the member's written election must be delivered to IPERS in person, by regular mail, E-mail, facsimile or by private carrier. Oral elections shall not be accepted. The member's election to suspend benefit payments in the month when the member's remuneration exceeds the amount of reimbursement permitted under this subrule shall remain in effect for all subsequent calendar years until revoked by the member in writing. If the member's written election is not received in time to avoid overpayment, the overpayment must be recovered, to the extent possible, from monthly amounts beginning in January of the next calendar year or under one of the alternate arrangements permitted under this rule. Effective July 1, 2007, remuneration shall include those amounts as described in 495—subrule 6.3(13).

**12.8(3)** A member who is reemployed in covered employment after retirement may, after again retiring from employment, request a recomputation of benefits. The member's retirement benefit shall be increased if possible by the addition of a second annuity, which is based on years of reemployment service, reemployment covered wages and the benefit formula in place at the time of the recomputation. A maximum of 30 years of service is creditable to an individual retired member. If a member's combined years of service exceed 30, a member's initial annuity may be reduced by a fraction of the years in excess of 30 divided by 30. The second retirement benefit will be treated as a separate annuity by IPERS.

Effective July 1, 1998, a member who is reemployed in covered employment after retirement may, after again terminating employment for at least one full calendar month, elect to receive a refund of the employee and employer contributions made during the period of reemployment in lieu of a second annuity. If a member requests a refund in lieu of a second annuity, the related service credit shall be forfeited.

Effective July 1, 2007, employer contributions described in 495—subrule 6.3(13) shall constitute "remuneration" for purposes of applying the reemployment earnings limit and determining reductions in the member's monthly benefits but shall not be considered covered wages for IPERS benefits calculations.

**12.8(4)** In recomputing a retired member's monthly benefit, IPERS shall use the following assumptions.

*a.* The member cannot change the option or beneficiary with respect to the reemployment period.

*b.* If the member would only qualify for a money purchase benefit under rule 495—12.5(97B) based solely on the period of reemployment, then the money purchase formula shall be used to compute the additional benefit amount due to the reemployment.

*c.* If the member would qualify for a non-money purchase retirement allowance based solely on the period of reemployment, the benefit formula in effect as of the first month of entitlement (FME) for the reemployment period shall be used. If the FME is July 1998 or later, and the member has more than 30 years of service, including both original and reemployment service, the percentage multiplier for the reemployment period only will be at the applicable percentage (up to 65 percent) for the total years of service.

*d.* If a period of reemployment would increase the monthly benefit a member is entitled to receive, the member may elect between the increase and a refund of the employee and employer contributions without regard to reemployment FME.

*e.* If a member previously elected IPERS Option 1, is eligible for an increase in the Option 1 monthly benefits, and elects to receive the increase in the member's monthly benefits, the member's Option 1 death benefit shall also be increased if the investment is at least $1,000. The amount of the increase shall be at least the same percentage of the maximum death benefit permitted with respect to the reemployment as the percentage of the maximum death benefit elected at the member's original retirement. In determining the increase in Option 1 death benefits, IPERS shall round up to the nearest $1,000. For example, if a member's investment for a period of reemployment is $1,900 and the member elected at the member's original retirement to receive 50 percent of the Option 1 maximum death benefit, the death benefit attributable to the reemployment shall be $1,000 (50 percent times $1,900, rounded up

to the nearest $1,000). Notwithstanding the foregoing, if the member's investment for the period of reemployment is less than $1,000, the benefit formula for a member who originally elected new IPERS Option 1 shall be calculated under IPERS Option 3.

*f.* A retired reemployed member whose reemployment FME precedes July 1998 shall not be eligible to receive the employer contributions made available to retired reemployed members under Iowa Code section 97B.48A(4) effective July 1, 1998.

*g.* A retired reemployed member who requests a return of the employee and employer contributions made during a period of reemployment cannot repay the distribution and have the service credit for the period of reemployment restored.

*h.* If a retired reemployed member selected IPERS Option 5 at retirement, and after the period of reemployment requests an increase in the member's monthly allowance, at death all remaining guaranteed payments with respect to both periods of employment shall be paid in a commuted lump sum.

*i.* If a retired reemployed member selected IPERS Option 2 (or old IPERS Option 1) at retirement, and after the period of reemployment requests an increase in the member's monthly allowance, at death the member's monthly payments following the increase shall be prorated between the member's two annuities to determine the amount of the member's remaining accumulated contributions that may be paid as a death benefit.

*j.* A retired reemployed member who has attained the age of 70 may take an actuarial equivalent (AE) payment. However, such a member must terminate covered employment for at least 30 days before taking an additional AE payment.

**12.8(5)** Mandatory distribution of active wages. If a retired reemployed member whose annual benefit would be increased by less than $600 does not request a second annuity or a lump sum payment of reemployment accruals by the end of the fourth quarter after the last quarter in which the member had covered wages, IPERS shall proceed to pay the member the applicable lump sum amount. The member shall have 60 days after the postmark date of the mandatory payment to return the payment and restore the member's account.

[**ARC 8601B**, IAB 3/10/10, effective 4/14/10; **ARC 0017C**, IAB 2/22/12, effective 3/28/12; **ARC 1887C**, IAB 2/18/15, effective 3/25/15]

**495—12.9(97B) Actuarial equivalent (AE) payments.**

**12.9(1)** If a member aged 55 or older requests an estimate of benefits which results in a monthly benefit amount under Option 2 of less than $50, the member shall receive, under Iowa Code section 97B.48(1), a lump sum actuarial equivalent (AE) payment in lieu of a monthly benefit. Once the AE payment has been paid to the member, the member shall not be entitled to any further benefits based on the contributions included in the AE payment and the employment period represented thereby. If the member later returns to covered employment, any future benefits the member accrues shall be based solely on the new employment period. If an estimate of benefits based on the new employment period again results in any one of the options having a monthly benefit amount of less than $50, the member may again elect to receive an AE payment.

**12.9(2)** If a member, upon attaining the age of 70 or later, requests a retirement allowance without terminating employment and the member's monthly benefit amount under Option 2 is less than $50, the member shall receive an AE payment based on the member's employment up to, but not including, the quarter in which the application is filed. When the member subsequently terminates covered employment, any benefits due to the member will be based only on the period of employment not used in computing the AE paid when the member first applied for a retirement allowance. If an estimate of benefits based on the later period of employment again results in a monthly benefit amount under Option 2 of less than $50, the member shall receive another AE payment. However, a member who elects to receive an AE payment upon or after attaining age 70 without terminating employment may not elect to receive additional AE payments unless the member terminates all covered employment for at least one full calendar month.

**12.9(3)** An AE payment under this rule shall be equal to the sum of the member's and employer's accumulated contributions and the retirement dividends standing to the member's credit before December 31, 1966.

**495—12.10(97B) Conforming rules for lump-sum payments.** Effective January 1, 2007, IPERS may, notwithstanding certain provisions of Iowa Code section 97B.53B enacted in order to comply with prior rollover provisions of the Internal Revenue Code, utilize forms and procedures affording payees of lump-sum distributions with broader rollover rights as permitted under the applicable roll-over provisions of the Internal Revenue Code as amended subsequent to the enactment of Iowa Code section 97B.53B.

These rules are intended to implement Iowa Code sections 97B.1A, 97B.1A(24), 97B.15, 97B.25, 97B.45, 97B.47 to 97B.48A, 97B.49A to 97B.49I, 97B.51, and 97B.53B.

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# CHAPTER 13
# DISABILITY FOR REGULAR AND SPECIAL SERVICE MEMBERS
[Prior to 11/24/04, see 581—Ch 21]

**495—13.1(97B) Disability for persons retiring under Iowa Code section 97B.50(2).**

**13.1(1)** For IPERS regular class members retiring because of a disability:

*a.* The member must be awarded federal social security benefits due to a disability which existed on or before the member's first month of entitlement.

*b.* Effective July 1, 1990, the member may also qualify for the IPERS disability provision by being awarded, and commencing to receive, disability benefits through the federal Railroad Retirement Act, 45 U.S.C. Section 231 et seq., due to a disability which existed at the time of retirement.

*c.* The period for which up to 36 months of retroactive payments under Iowa Code section 97B.50(2) shall be paid is for up to 36 months preceding the month in which such completed application for IPERS disability is received by IPERS. In no event shall retroactive disability benefits payments under Iowa Code section 97B.50(2) precede the month the member actually receives the member's first social security or railroad retirement disability payment. The member shall provide IPERS with a copy of the Social Security Administration or railroad retirement award letter showing dates of eligibility.

*d.* Continued qualification monitoring.

(1) For a member retiring due to a disability under Iowa Code section 97B.50(2), on or after July 1, 2009, the member shall provide IPERS with proof of continuing eligibility for federal social security disability benefits or railroad retirement disability benefits by June 30 of each calendar year, in order to continue qualification for IPERS disability benefits.

(2) For a member retiring due to a disability under Iowa Code section 97B.50A, the member shall provide IPERS complete copies of the member's state and federal income tax returns, including all supporting schedules, by June 30 of each calendar year, in order to continue qualification for IPERS disability benefits.

IPERS shall suspend the disability benefits of any member if the records required under these subparagraphs are not timely provided.

**13.1(2)** If a member returns to covered employment after achieving a bona fide retirement, the benefits being provided to the member under Iowa Code section 97B.50(2) *"a"* or *"b"* shall be suspended or reduced as follows. If the member has not attained the age of 55 upon reemployment, benefit payments shall be suspended in their entirety until the member subsequently terminates employment, applies for, and is approved to receive benefits under the provisions of Iowa Code chapter 97B. If the member has attained the age of 55 or older upon reemployment, the member shall continue to receive monthly benefits adjusted as follows. Monthly benefits shall be calculated under the same benefit option that was first selected, based on the member's age, years of service, and the applicable reductions for early retirement as of the month that the member returns to covered employment. The member's benefit shall also be subject to the applicable provisions of Iowa Code section 97B.48A pertaining to reemployed retired members.

**13.1(3)** Upon terminating a reemployment that resulted in the suspension of all or a portion of the member's disability retirement allowance, the member's benefits shall be recomputed under Iowa Code section 97B.48A and rule 495—12.8(97B). To requalify for a monthly retirement allowance under Iowa Code section 97B.50(2), the member must furnish a new or updated Social Security Administration disability award letter, or other acceptable documentation from the Social Security Administration, indicating that the member is currently eligible for social security disability benefits.

**13.1(4)** If a member whose IPERS disability benefits were suspended because of the member's return to covered employment provides proof acceptable to IPERS that the member remains eligible for federal social security disability benefits or railroad retirement disability benefits, IPERS shall reinstate the member's disability benefits, subject to the member's continued compliance with paragraph 13.1(1) *"d."*

[**ARC 1348C**, IAB 2/19/14, effective 3/26/14; **ARC 1887C**, IAB 2/18/15, effective 3/25/15]

**495—13.2(97B) Disability claim process for special service members.** Except as otherwise indicated, this rule shall apply only to disability claims initiated under Iowa Code section 97B.50A. Except as

otherwise indicated, disability claims under Iowa Code section 97B.50(2) shall be administered under rule 495—13.1(97B).

**13.2(1)** *Initiation of disability claim.* The disability claim process shall originate as an application to the system by the member. The application shall be forwarded to the system's designated retirement benefits officer. An application shall be sent upon request to members who qualify pursuant to Iowa Code section 97B.50A(13). The application consists of the following sections which must be completed and returned to the system's designated retirement benefits officer:

1. General applicant information.
2. Applicant's statement.
3. Employer's statement.
4. Member's assigned duties.
5. Disability/injury reports.
6. Medical information release.

**13.2(2)** *Preliminary processing.* Completed forms shall be returned to the disability retirement benefits officer. If the forms are not complete, they will be returned for completion. The application package shall contain copies of all relevant medical records and the names, addresses, and telephone numbers of all relevant physicians. If medical records are not included, the designated retirement benefits officer shall have the authority to contact the listed physicians for copies of the files on the individual and shall request that any applicable files be sent to the medical board. In addition, IPERS may request workers' compensation records, social security records and such other official records as are deemed necessary. The application, including copies of the medical information, shall be forwarded to the medical board for review. All medical records that will be part of a member's permanent file shall be kept in locked locations separate from the member's other retirement records.

**13.2(3)** *Scheduling of appointments.* Upon receipt and forwarding of the application and sufficient medical records to the medical board, the disability retirement benefits officer shall establish an appointment for the applicant to be seen by the medical board in Iowa City. The member shall be notified by telephone and in writing of the appointment, and shall be given general instructions about where to go for the examinations. The appointment for the examinations shall be no later than 60 days after the completed application, including sufficient medical records, is provided. All examinations must be scheduled and completed on the same date. The member shall also be notified about the procedures to follow for reimbursement of travel expenses and lodging. Fees for physical examinations and medical records costs shall be paid directly by IPERS pursuant to its contractual arrangements with the medical providers required to implement Iowa Code section 97B.50A.

**13.2(4)** *Medical board examinations.* The medical board, consisting of three physicians from the University of Iowa occupational medicine clinic and other departments as required, shall examine the member and perform the relevant tests and examinations.

The medical board shall submit a letter of recommendation to the system, based on its findings and the job duties supplied in the member's application, whether or not the member is mentally or physically incapacitated from the further performance of the member's duties and whether or not the incapacity is likely to be permanent. "Permanent" means that the mental or physical incapacity is reasonably expected to last more than one year. The medical board's letter of recommendation shall include a recommended schedule for reexaminations to determine the continued existence of the disability in question.

IPERS shall not be liable for any diagnostic testing procedures performed in accordance with Iowa Code section 97B.50A and this rule which are alleged to have resulted in injury to the members being examined.

The medical board shall furnish its determination, test results, and supporting notes to the system no later than ten working days after the date of the examination. The medical board may use electronic signatures in fulfilling its reporting obligations under this rule.

The medical board shall not be required to have regular meetings, but shall be required to meet with IPERS' representatives at reasonable intervals to discuss the implementation of the program and performance review.

**13.2(5)** *Member and employer comments.* Upon receipt by the system, the medical board's determination regarding the existence or nonexistence of a permanent disability shall be distributed to the member and to the employer for review. The member and the employer may forward to the system written statements pertaining to the medical board's findings within ten days of transmittal. If relevant medical information not considered in materials previously forwarded to the medical board is contained within such written statements, the system shall submit such information to the medical board for review and comment.

**13.2(6)** *Fast-track review.* IPERS' disability retirement benefits officer may refer any case to IPERS' chief benefits officer (CBO) for fast-track review. The CBO or the CBO's designee may, based upon a review of the member's application and medical records, determine that the medical board be permitted to make its recommendations based solely upon a review of the application and medical records, without requiring the member to submit to additional medical examinations by, or coordinated through, the medical board.

**13.2(7)** *Initial administrative determination.* The medical board's letter of recommendation, test results, and supporting notes, and the member's file shall be forwarded to IPERS. Except as otherwise requested by IPERS, the medical board shall forward hospital discharge summary reports rather than the entire set of hospital records. The complete file shall be reviewed by the system's disability retirement benefits officer, who shall, in consultation with the system's legal counsel, make the initial disability determination. Written notification of the initial disability determination shall be sent to the member and the member's employer within 14 business days after a complete file has been returned to IPERS for the initial disability determination.

**13.2(8)** *General benefits provisions.* Effective July 1, 2000, if an initial disability determination is favorable, benefits shall begin as of the date of the initial disability determination or, if earlier, the member's last day on the payroll, but no more than six months of retroactive benefits are payable, subject to Iowa Code section 97B.50A(13). "Last day on the payroll" shall include any form of authorized leave time, whether paid or unpaid. If a member receives short-term disability benefits from the employer while awaiting a disability determination hereunder, disability benefits will accrue from the date the member's short-term disability payments are discontinued. If an initial favorable determination is appealed, the member shall continue to receive payments pending the outcome of the appeal.

Any member who is awarded disability benefits under Iowa Code section 97B.50A and this rule shall be eligible to elect any of the benefit options available under Iowa Code section 97B.51. All such options shall be the actuarial equivalent of the lifetime monthly benefit provided in Iowa Code section 97B.50A(2) and (3).

The disability benefits established under this subrule shall be eligible for the favorable experience dividends payable under Iowa Code section 97B.49F(2).

If the award of disability benefits is overturned upon appeal, the member may be required to repay the amount already received or, upon retirement, have payments suspended or reduced until the appropriate amount is recovered.

IPERS shall, at the member's written request, precertify a member's medical eligibility through the procedures set forth in subrules 13.2(3) and 13.2(4), provided that IPERS shall have full discretion to request additional medical information and to redetermine the member's medical eligibility if the member chooses not to apply for disability benefits at the time of the precertification. IPERS shall not pay for the costs of more than one such precertification per 12-month period.

**13.2(9)** *In-service disability determinations.* Subject to the presumptions contained in Iowa Code section 97B.50A in determining whether a member's mental or physical incapacity arises in the actual performance of duty, "duty" shall mean:

*a.* For special service members other than firefighters, any action that the member, in the member's capacity as a law enforcement officer:

(1) Is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or

(2) Performs in the course of controlling or reducing crime or enforcing the criminal law; or

*b.* For firefighters, any action that the member, in the member's capacity as a firefighter:

(1) Is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or

(2) Performs while on the scene of an emergency run (including false alarms) or on the way to or from the scene.

*c.* A presumption shall exist that a special service member contracted a disease while on active duty only if the disease is defined by Iowa Code section 97B.50A(2)*"c"* as amended by 2010 Iowa Acts, House File 2518, section 31. If a presumption exists, IPERS may, in making its determination as to whether a disability was incurred while the member was on active duty, go forward with evidence to rebut the presumption. IPERS can rebut the presumption when credible evidence exists to the contrary or when the requirements are met in Iowa Code section 97B.50A(2)*"c"* as amended by 2010 Iowa Acts, House File 2518, section 31. Under no circumstances shall the burden of proof shift from the special service member to IPERS.

**13.2(10)** *Appeal rights.* The member or the employer, or both, may appeal IPERS' initial disability determination. Within 30 days after the notification of IPERS' initial disability determination was mailed, the member shall submit to IPERS' CEO or CEO's designee a notice of appeal in writing setting forth:

*a.* The name, address, and social security number of the member or employee number of the employer;

*b.* A reference to the decision from which the appeal is being made;

*c.* The fact that an appeal from the decision is being made;

*d.* The grounds upon which the appeal is based;

*e.* Additional medical or other evidence to support the appeal; and

*f.* The request that a different decision be made by IPERS.

The system shall conduct an internal review of the initial disability determination, and the CEO or CEO's designee shall notify in writing the party who filed the appeal of IPERS' final disability determination with respect to the appeal. The CEO or CEO's designee may appoint a review committee to make nonbinding recommendations on such appeals. The disability retirement benefits officer, if named to the review committee, shall not vote on any such recommendations, nor shall any members of IPERS' legal staff participate in any capacity other than a nonvoting capacity. Further appeals shall follow the procedures set forth in 495—Chapter 26.

**13.2(11)** *Notice of abuse of disability benefits.* The system has the obligation and full authority to investigate allegations of abuse of disability benefits. The scope of the investigation to be conducted shall be determined by the system, and may include the ordering of a sub rosa investigation of a disability recipient to verify the facts relating to an alleged abuse. A sub rosa investigation shall only be considered upon receipt and evaluation of an acceptable notice of abuse. The notification must be in writing and include:

*a.* The informant's name, address, telephone number, and relationship to the disability recipient; and

*b.* A statement pertaining to the circumstances that prompted the notification, such as activities which the informant believes are inconsistent with the alleged disability.

*c.* Anonymous calls shall not constitute acceptable notification.

IPERS may employ such investigators and other personnel, in IPERS' sole discretion, as may be deemed necessary. IPERS may also, in its sole discretion, decline to carry out such investigations if more than five years have elapsed since the date of the disability determination.

**13.2(12)** *Qualification for social security or railroad retirement disability benefits.* Upon qualifying for social security or railroad retirement disability benefits, a special service member may contact the system to have the member's disability benefits calculated under Iowa Code section 97B.50(2). The member and spouse must complete the designated application to stop having benefits calculated under Iowa Code section 97B.50A and to start having benefits calculated under Iowa Code section 97B.50(2). The decision is irrevocable, and must be made within 60 days after the member receives written notification of eligibility for disability benefits from social security or railroad retirement and has commenced receiving such payments.

**13.2(13)** *Reemployment/income monitoring.* A member who retires under Iowa Code section 97B.50A and this rule shall be required to supply a copy of a complete set of the member's state and federal income tax returns, including all supporting schedules, by June 30 of each calendar year. IPERS may suspend the benefits of any such member if such records are not timely provided.

Only wages and self-employment income shall be counted in determining a member's reemployment comparison amount, as adjusted for health care coverage for the member and member's dependents.

For purposes of calculating the income offsets required under Iowa Code section 97B.50A, IPERS shall convert any lump sum workers' compensation award, disability insurance payments, or similar lump sum awards for the same illnesses or injuries to an actuarial equivalent, as determined by IPERS.

[**ARC 8929B**, IAB 7/14/10, effective 6/21/10; **ARC 9068B**, IAB 9/8/10, effective 10/13/10; **ARC 0662C**, IAB 4/3/13, effective 5/8/13]

These rules are intended to implement Iowa Code sections 97B.50 and 97B.50A.

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# CHAPTER 14
# DEATH BENEFITS AND BENEFICIARIES
[Prior to 11/24/04, see 581—Ch 21]

**495—14.1(97B) Internal Revenue Code limitations.** The death benefits payable under Iowa Code sections 97B.51 and 97B.52 shall not exceed the maximum amount possible under Internal Revenue Code Section 401(a)(9).

To ensure that the limit is not exceeded, a member's combined lump sum death benefit under Iowa Code sections 97B.52(1) and 97B.52(2) shall not exceed 100 times the Option 2 amount that would have been payable to the member at the member's earliest normal retirement age. If a beneficiary of a special service member is eligible for an in-the-line-of-duty death benefit, any reduction required under this rule shall be taken first from a death benefit payable under Iowa Code section 97B.52(1). The "100 times" limit shall apply to active and inactive members. The death benefits payable under this chapter for a period of reemployment for a retired reemployed member who dies during the period of reemployment shall also be subject to the limits described in this rule.

The maximum claims period for IPERS lump sum death benefits shall not exceed the period required under Internal Revenue Code Section 401(a)(9), which may be less than five years for a member who dies after the member's required beginning date, unless the beneficiary is a spouse. The claims period for all cases in which the member's death occurs during the same calendar year in which a claim must be filed under this rule shall end April 1 of the year following the year of the member's death.

A member's beneficiary or heir may file a claim for previously forfeited death benefits. Interest, if any, for periods prior to the date of the claim will only be credited through the quarter that the death benefit was required to be forfeited by law. Interest for periods following the quarter of forfeiture will accrue beginning with the quarter that the claim for reinstatement is received by IPERS. For death benefits required to be forfeited in order to satisfy Section 401(a)(9) of the federal Internal Revenue Code, in no event will the forfeiture date precede January 1, 1988. IPERS shall not be liable for any excise taxes imposed by the Internal Revenue Service on reinstated death benefits.

Effective January 14, 2004, all claims for a previously forfeited death benefit shall be processed under the procedure set forth at rule 495—14.13(97B).

The system recognizes the validity of same gender marriages executed in Iowa on or after April 27, 2009, if the domestic relations order or other assignment otherwise meets the system's minimum requirements for such orders; the system shall modify the tax treatment of distributions under such orders as required by the federal laws governing such distributions. IPERS shall adopt such rules and procedures as are deemed necessary to fully implement the provisions of this rule. The Iowa Supreme Court decision recognizing same gender marriages in Iowa specifically states that this recognition does not extend to same gender marriages of other states. The system recognizes the validity of same gender marriages based on the U.S. Supreme Court's decision in *United States v. Windsor,* 133 S.Ct. 2675 (2013) and the direction of Rev. Rul. 2013-17 and IRS Notice 2014-19. IPERS shall recognize the federal tax treatment of distributions as required by the sources listed in this paragraph.

[**ARC 8601B**, IAB 3/10/10, effective 4/14/10; **ARC 1348C**, IAB 2/19/14, effective 3/26/14; **ARC 1887C**, IAB 2/18/15, effective 3/25/15]

**495—14.2(97B) Survival into first month of entitlement.** When a member who has filed an application for retirement benefits and has survived into the first month of entitlement dies prior to the issuance of the first benefit check, IPERS will pay the death benefit allowed under the retirement option elected by the member in the application for retirement benefits.

**495—14.3(97B) Designation of beneficiaries.**

**14.3(1)** *Designation of beneficiaries.* To designate a beneficiary, the member must complete an IPERS designation of beneficiary form, which must be filed with IPERS. The designation of a beneficiary by a retiring member on the application for monthly benefits revokes all prior designation of beneficiary forms. IPERS may consider as valid a designation of beneficiary form filed with the member's employer prior to the death of the member, even if that form was not forwarded to

IPERS prior to the member's death. If a retired member is reemployed in covered employment, the most recently filed beneficiary form shall govern the payment of all death benefits for all periods of employment. Notwithstanding the foregoing sentence, a reemployed IPERS Option 4 or 6 retired member may name someone other than the member's contingent annuitant as beneficiary, but only for lump sum death benefits accrued during the period of reemployment and only if the contingent annuitant has died or has been divorced from the member before or during the period of reemployment unless a qualified domestic relations order (QDRO) directs otherwise. If a reemployed IPERS Option 4 or 6 retired member dies without filing a new beneficiary form, the death benefits accrued for the period of reemployment shall be paid to the member's contingent annuitant, unless the contingent annuitant has died or been divorced from the member. If the contingent annuitant has been divorced from the member, any portion of the lump sum death benefits awarded in a QDRO shall be paid to the contingent annuitant as alternate payee, and the remainder of the lump sum death benefits shall be paid to the member's estate or, if applicable, to the member's heirs if no estate is probated.

**14.3(2)** *Change of beneficiary.* The beneficiary may be changed by the member by filing a new designation of beneficiary form with IPERS. The latest dated designation of beneficiary form on file shall determine the identity of the beneficiary. Payment of a refund to a terminated member cancels the designation of beneficiary on file with IPERS.

[**ARC 1887C**, IAB 2/18/15, effective 3/25/15]

**495—14.4(97B) Applications for death benefits.** Before death benefit payments can be made, application in writing must be submitted to IPERS with a copy of the member's death certificate, together with information establishing the claimant's right to payment. A named beneficiary must complete an IPERS application for death benefits based on the deceased member's account. If the claimant's claim is based on dissolution of marriage that revoked the IPERS beneficiary designation, the claim must be processed pursuant to rule 495—14.17(97B).

[**ARC 1887C**, IAB 2/18/15, effective 3/25/15]

**495—14.5(97B) Commuted lump sums.**

**14.5(1)** *Designated beneficiary is an estate, trust, church, charity, or similar organization.* Where the designated beneficiary is an estate, trust, church, charity or similar organization, or is a person, such as a trustee, executor, or administrator who has been appointed to receive funds on behalf of such entities, payment of benefits shall be made in a lump sum only.

**14.5(2)** *Multiple beneficiaries.* Where multiple beneficiaries have been designated by the member, payment, including the payment of the remainder of a series of guaranteed annuity payments, shall be made in a lump sum only. The lump sum payment shall be paid to the multiple beneficiaries in equal shares.

**14.5(3)** *Guaranteed payments.* Where a member has selected Option 5 and dies before receiving all guaranteed payments, and the member's designated beneficiary also dies before all guaranteed payments are made, any remaining guaranteed payments shall be paid in a commuted lump sum.

[**ARC 8929B**, IAB 7/14/10, effective 6/21/10; **ARC 9068B**, IAB 9/8/10, effective 10/13/10]

**495—14.6(97B) Payment of the death benefit when no designation of beneficiary or an invalid designation of beneficiary form is on file.** When no designation of beneficiary or an invalid designation of beneficiary form is on file with IPERS, payment shall be made in one of the following ways.

**14.6(1)** Where the estate is open, payment shall be made to the administrator or executor where said executor or administrator shall be duly appointed and serving under Iowa Code chapter 633 or 635.

**14.6(2)** Where no estate is probated or the estate is closed prior to the filing with IPERS of an application for death benefits, payment will be made to the surviving spouse. The following documents shall be presented as supporting evidence:

*a.* Copy of the will, if any;

*b.* Copy of any letters of appointment; and

*c.* Copy of the court order closing the estate and discharging the executor or administrator.

**14.6(3)** Where no estate is probated or the estate is closed prior to the filing with IPERS of an application for death benefits and there is no surviving spouse, payment will be made to the heirs-at-law as determined by the intestacy laws of the state of Iowa.

**14.6(4)** Where a trustee has been named as designated beneficiary and is not willing to accept the death benefit or otherwise serve as trustee, IPERS may apply but is not required to apply to the applicable district court for an order to distribute the funds to the clerk of court on behalf of the beneficiaries of the member's trust. Upon the issuance of an order and the giving of such notice as the court prescribes, IPERS may deposit the death benefit with the clerk of court for distribution. IPERS shall be discharged from all liability upon deposit with the clerk of court.

**495—14.7(97B) Waiver of beneficiary rights.** A named beneficiary of a deceased member may waive current and future rights to payments to which the beneficiary would have been entitled. The waiver of the rights shall occur prior to the receipt of a payment from IPERS to the beneficiary. The waiver of rights shall be binding and will be executed on a form provided by IPERS. The waiver of rights may be general, in which case payment shall be divided equally among all remaining designated beneficiaries or, if there are none, to the member's estate. The waiver of rights may also expressly be made in favor of one or more of the member's designated beneficiaries or the member's estate. If the waiver of rights operates in favor of the member's estate and no estate is probated or claim made, or if the executor or administrator expressly waives payment to the estate, payment shall be paid to the member's surviving spouse unless there is no surviving spouse or the surviving spouse has waived the surviving spouse's rights. In that case, payment shall be made to the member's heirs excluding any person who waived the right to payment. Any waiver filed by an executor, administrator, or other fiduciary must be accompanied by a release acceptable to IPERS indemnifying IPERS from all liability to beneficiaries, heirs, or other claimants for any waiver executed by an executor, administrator, or other fiduciary.

**495—14.8(97B) Beneficiaries under the age of 18.** Payment may be made to a conservator if the beneficiary is under the age of 18 and the total dollar amount to be paid by IPERS to a single beneficiary is $25,000 or more. Payment may be made to a custodian if the total dollar amount to be paid by IPERS to a single beneficiary is less than $25,000.

**495—14.9(97B) Simultaneous deaths.** IPERS will apply the provisions of the Uniform Simultaneous Death Act, Iowa Code sections 633.523 et seq., in determining the proper beneficiaries of death benefits in applicable cases.

**495—14.10(97B) Felonious deaths.** IPERS will apply the provisions of the Felonious Death Act, Iowa Code sections 633.535 et seq., in determining the proper beneficiaries of death benefits in applicable cases.

**495—14.11(97B) No interest on postretirement death benefits.** Interest is only accrued on a member's death benefit if the member dies before the member's first month of entitlement (FME) or, for a retired reemployed member, before the member's reemployment FME, and is only accrued with respect to the retired or retired reemployed member's accumulated contributions account.

**495—14.12(97B) Preretirement death benefits.**

**14.12(1)** *Pre-January 1, 1999, deaths.* Where the member dies prior to the first month of entitlement, the death benefit shall include the accumulated contributions of the member plus the product of an amount equal to the highest year of covered wages of the deceased member and the number of years of membership service divided by the "applicable denominator," as provided in Iowa Code section 97B.52(1). The amount payable shall not be less than the amount that would have been payable on the death of the member on June 30, 1984. The calculation of the highest year of covered wages shall use the highest calendar year of covered wages reported to IPERS.

**14.12(2)** *Post-January 1, 1999, deaths—death benefits under Iowa Code section 97B.52(1).*

*a.* Definitions.

*"Accrued benefit"* means the monthly amount that would have been payable to the deceased member under IPERS Option 2 at the member's earliest normal retirement age, based on the member's covered wages and service credits at the date of death. If a deceased member's wage record consists of a combination of regular and special service credits, the monthly amount that would have been payable to the deceased member under Option 2 at the member's earliest normal retirement age shall be determined separately for regular and special service credits, and then combined.

*"Beneficiary(ies)"* shall, unless the context indicates otherwise, refer to both window period beneficiaries and post-window period beneficiaries.

*"Implementation date"* means January 1, 2001.

*"Nearest age"* means a member's or beneficiary's age expressed in whole years, after rounding for partial years of age. Ages shall be rounded down to the nearest whole year if less than six complete months have passed following the month of the member's or beneficiary's last birthday, and shall be rounded up if six complete months or more have passed following the month of the member's or beneficiary's last birthday.

*"Post-window period beneficiary"* means a beneficiary of a member who dies before the member's first month of entitlement and on or after January 1, 2001.

*"Window period beneficiary"* means a beneficiary of a member who dies before the member's first month of entitlement during the period January 1, 1999, through December 31, 2000.

*b.* Any window period beneficiary or post-window period beneficiary may elect to receive the lump sum amount available under Iowa Code section 97B.52(1). Sole beneficiaries may elect, in lieu of the foregoing lump sum amount, to receive a single life annuity that is the actuarial equivalent of such lump sum amount.

A window period beneficiary must repay any prior preretirement death benefit received as follows:

(1) If a window period beneficiary wishes to receive the larger lump sum amount, if any, the system shall pay the difference between the prior death benefit lump sum amount and the new death benefit lump sum amount.

(2) If a sole window period beneficiary wishes to receive a single life annuity under Iowa Code section 97B.52(1), the sole window period beneficiary may either:

1. Annuitize the difference between the previously paid lump sum amount and the new larger lump sum amount, if any; or

2. Annuitize the full amount of the largest of the lump sum amounts available under the revised statute, but must repay the full amount of the previously paid lump sum amount.

(3) To the extent possible, repayment costs shall be recovered from retroactive monthly payments, if any, and the balance shall be offset against current and future monthly payments until the system is repaid in full.

*c.* A claim for a single life annuity under this subrule must be filed as follows:

(1) A sole window period beneficiary must file a claim for a single life annuity within 12 months of the implementation date.

(2) A sole post-window period beneficiary must file a claim for a single life annuity within 12 months of the member's death.

(3) A beneficiary who is a surviving spouse must file a claim for a single life annuity within the period specified in subparagraph (1) or (2), as applicable, or by the date that the member would have attained the age of 70½, whichever period is longer.

*d.* Elections to receive the lump sum amount or single life annuity available under Iowa Code section 97B.52(1) and this subrule shall be irrevocable once the first payment is made. Election shall be irrevocable as of the date the first paycheck is issued, or would have been issued but for the fact that the payment is being offset against a prior preretirement death benefit payment.

*e.* No further benefits will be payable following the death of any beneficiary who qualifies and elects to receive the single life annuity provided under this subrule.

*f.* The provisions of this subrule shall not apply to members who die before January 1, 1999.

*g.* Procedures and assumptions to be used in calculating the lump sum present value of a member's accrued benefit are as follows:

(1) IPERS shall calculate a member's retirement benefit at earliest normal retirement age under IPERS Option 2, based on the member's covered wages and service credits at the date of death, and the retirement benefit formula in effect in the month following the date of death.

(2) For purposes of determining the "member date of death annuity factor" under the conversion tables supplied by IPERS' actuary, IPERS shall assume that "age" means the member's nearest age at the member's date of death.

(3) For purposes of determining the "member unreduced retirement annuity factor" under the conversion tables supplied by IPERS' actuary, IPERS shall assume that "age" means the member's nearest age at the member's earliest normal retirement date. If a member had already attained the member's earliest normal retirement date, IPERS shall assume that "age" means the member's nearest age at the date of death.

*h.* Procedures and assumptions for converting the lump sum present value of a deceased member's preretirement death benefit to a single life annuity are as follows:

(1) For purposes of determining the "age of beneficiary annuity factor" under the conversion tables supplied by IPERS' actuary, IPERS shall assume that "age" means the beneficiary's nearest age as of the beneficiary's first month of entitlement.

(2) A beneficiary's first month of entitlement is the month after the date of the member's death.

(3) Effective for claims filed after June 30, 2004, no retroactive payments of the single life annuity shall be made under this subrule.

(4) Effective for claims filed after June 30, 2004, the beneficiary whose single life annuity is less than $600 per year shall be able to receive only the lump sum payment under this rule.

*i.* Eligibility for favorable experience dividend (FED) payments. Any sole beneficiary who is eligible for and elects to receive a single life annuity under this subrule shall also qualify for the dividend payments authorized under rule 495—15.2(97B), subject to the requirements of that rule.

*j.* Retired reemployed members and aged 70 members who retire without terminating employment. Preretirement death benefits for retired reemployed members and aged 70 members who retire without terminating employment shall be calculated as follows:

(1) For beneficiaries of such members who elect IPERS Option 4 or 6 at retirement, IPERS shall recompute (for retired reemployed members) or recalculate/recompute (for aged 70 members who retired without terminating employment) the member's monthly benefits as though the member had elected to terminate employment as of the date of death, to have the member's benefits adjusted for postretirement wages, and then lived into the recomputation or recalculation/recomputation (as applicable) first month of entitlement.

(2) The recomputation provided under subparagraph (1) shall apply only to beneficiaries of members who elected IPERS Option 4 or 6, where the member's monthly benefit would have been increased by the period of reemployment, and is subject to the limitations of Iowa Code sections 97B.48A, 97B.49A, 97B.49B, 97B.49C, 97B.49D, and 97B.49G. The recalculation/recomputations provided under subparagraph (1) shall apply only to beneficiaries of members who elected IPERS Option 4 or 6, where the member's monthly benefit would have been increased by the period of employment after the initial retirement, and is subject to the limitations of Iowa Code sections 97B.49A, 97B.49B, 97B.49C, 97B.49D, and 97B.49G. In all other cases, including cases where members previously received a lump sum payment under Iowa Code section 97B.48(1) in lieu of a monthly retirement allowance, preretirement death benefits under this subparagraph shall be the lump sum amount equal to the accumulated employee and accumulated employer contributions.

(3) Beneficiaries of members who had elected IPERS Option 4 or 6 may also elect to receive the accumulated employer and accumulated employee contributions described in subparagraph 14.12(2)*"j"*(2), in lieu of the increased monthly annuity amount. Notwithstanding subparagraph (2) above, if the member elected IPERS Option 5 at retirement, the lump sum amount payable under this paragraph shall be the greater of the applicable commuted lump sum or the accumulated employee and accumulated employer contributions.

*k.* Inactive members with less than 16 quarters of service credit. For deaths occurring after June 30, 2004, preretirement death benefits shall be provided solely under Iowa Code section 97B.52(1)*"a,"*

and shall only be payable in lump sum amounts for inactive members who have less than 16 quarters of service credit. For purposes of this paragraph, an inactive member is a member as defined under Iowa Code section 97B.1A(12).
[**ARC 0017C**, IAB 2/22/12, effective 3/28/12]

**495—14.13(97B) Payment procedures for heirs that cannot be located.**

**14.13(1)** *Order of priority.* If a death benefit cannot be paid because heirs cannot be located, IPERS will pay a death benefit to the member's heirs according to the following procedure.

*a. Children.* If there is no surviving spouse, but at least one child survives, the death benefit shall be divided equally among the member's children. If there are living and deceased children, the shares that would have been payable to deceased children shall be payable in equal shares to the surviving children of each such deceased child.

*b. Grandchildren.* If neither the spouse nor children survive, but at least one grandchild survives, the death benefit shall be divided equally among the member's grandchildren. If there are living and deceased grandchildren, the shares that would have been payable to any deceased grandchild shall be payable in equal shares to the surviving children of such deceased grandchild.

*c. Parent(s).* If there is no surviving spouse, child, or grandchild, but at least one parent survives, the death benefit shall be divided equally between the member's parents.

*d. Siblings.* If there is no surviving spouse, child, grandchild, or parent, but at least one sibling survives, the death benefit shall be divided equally among the member's siblings. If there are living and deceased siblings, the shares that would have been payable to any deceased sibling shall be payable in equal shares to the surviving children of such deceased siblings.

*e. Nephew(s) and niece(s).* If no one from the above-mentioned groups survives, but there is at least one surviving niece or nephew, the death benefit shall be divided equally among the member's surviving nieces and nephews.

*f. Estate.* If someone other than a member of one of the groups listed above claims the member's death benefit, an estate must be opened and the death benefit shall only be payable to the administrator of that estate.

**14.13(2)** *Procedures for initial distribution for identified heirs.* IPERS shall distribute the death benefit to the heirs making a claim for such benefit in descending order listed in 14.13(1)*"a"* to *"f."* A claimant shall be required to submit an affidavit suitable to IPERS that verifies the claimant's share or, to the best of the claimant's knowledge, that there are no other surviving persons from the claimant's group and that there are no living persons in any lower-numbered group that would have a higher priority claim to the death benefit. IPERS shall have no responsibility to determine or search out the member's heirs at law, nor shall IPERS incur any liability for relying on a claimant's affidavits in paying the death benefit hereunder.

**14.13(3)** *Procedures for final distribution to heirs who have filed claims.* If a claimant has identified other persons in the claimant's group who would be entitled to a share of the member's death benefit, but such persons have not filed a claim within five years after the member's death, or by the date required under IRC Section 401(a)(9) if earlier, the remainder of the member's death benefit shall be paid in pro-rata shares to the claimants who were previously paid a share of the death benefit. In order to comply with the applicable IRS limitations, the final payments under this subrule shall be made by December 31 of the fifth year that begins after the member's date of death, or by December 31 of the year that distribution is required under IRC Section 401(a)(9), if earlier. The sole recourse of any claimant who is a member of a group receiving payments hereunder or of any lower-numbered group that should have received all of such payments shall be against the claimants of the group that received death benefit payments.

**495—14.14(97B) Procedures for deaths of certain voluntary emergency services personnel occurring in the line of duty.** Effective July 1, 2006, for a member who dies while performing the functions of a voluntary emergency services provider as described under Iowa Code section 85.61 or

147A.1, benefits for deaths occurring in the line of duty shall be paid pursuant to Iowa Code section 100B.31.

**495—14.15(97B) Rollovers by nonspouse beneficiaries.** Effective January 1, 2007, nonspouse beneficiaries shall be permitted to request a direct rollover of such beneficiaries' death benefit payments to traditional IRA accounts established in accordance with Section 829 of the Pension Protection Act of 2006 and IRS Notice 2007-7. IPERS shall determine the amount eligible for direct rollover under IRC Section 401(a)(9), if any, and the procedural requirements for requesting such rollovers. It shall be the beneficiaries' responsibility to determine that the recipient IRAs meet the structural and operational requirements of Section 829 and Notice 2007-7. IPERS shall bear no responsibility for rollovers to IRA accounts that fail to meet such requirements.

Effective January 1, 2008, IPERS will also allow rollovers under this rule to Roth IRA accounts established in accordance with the structural and operational requirements of Section 829 and Notice 2007-7.

**495—14.16(97B) Required minimum distribution (RMD) basic calculation.**

**14.16(1)** The RMD for a member who retired under an option with a lump sum death benefit and died after the member's required beginning date (RBD) is calculated as follows:

*a.* Step 1. Determine the number of payments remaining for the calendar year in which the member died. The current month's payment is not used in this calculation.

*b.* Step 2. Multiply the number of remaining payments determined in Step 1 by the gross amount of the member's last monthly payment to get the RMD amount. If the lump sum death benefit is less than the RMD, then the RMD is the lump sum death benefit amount.

*c.* Step 3. Determine the total non-RMD amount by subtracting the RMD as determined in Step 2 from the lump sum death benefit.

*d.* The eligible rollover amount is the total non-RMD amount as determined in Step 3.

**14.16(2)** In order to allocate nontaxable amounts between RMD and non-RMD, the calculation is performed as follows:

*a.* Nontaxable amounts are allocated first to the RMD portion of the lump sum death benefit.

*b.* If the nontaxable amounts are greater than the RMD amount, the remaining nontaxable amounts are allocated to the non-RMD portion of the lump sum amount.

*c.* If the nontaxable amounts are less than the RMD amount, the remaining portion of the RMD amount is composed of taxable amounts.

[**ARC 8929B**, IAB 7/14/10, effective 6/21/10; **ARC 9068B**, IAB 9/8/10, effective 10/13/10]

**495—14.17(97B) Beneficiary revocation pursuant to Iowa Code section 598.20B, dissolution of marriage.** IPERS is not liable for the payment of death benefits to a beneficiary pursuant to a beneficiary designation that has been revoked or reinstated by a divorce, annulment, or remarriage before IPERS receives the written notice set forth in subrule 14.17(1). Furthermore, IPERS shall only be liable for payments made after receipt of such written notice if the written notice is received at least ten calendar days prior to the payment.

**14.17(1)** *Form of notice.* The written notice shall include the following information:

*a.* The name of the deceased member,

*b.* The name of the person(s) whose entitlement to IPERS death benefits is being challenged,

*c.* The name, address, and telephone number of the person(s) asserting an interest,

*d.* A statement that the decedent's divorce, annulment, or remarriage revoked the entitlement of the person(s) whose status is being challenged to the IPERS death benefits in question, and

*e.* A copy of the divorce decree upon which the claim is based.

In addition to the above information, if the person whose entitlement is being challenged is not the former spouse, the written notice must indicate that the person was related to the former spouse, but not the member, by blood, adoption or affinity, and state the nature of the relationship.

**14.17(2)** *Delivery of notice.* Written notice under this rule must be addressed to IPERS General Counsel and mailed to IPERS by registered mail or served upon IPERS in the same manner as a summons in a civil action.

**14.17(3)** *Administration.* Upon receipt of written notice that meets the requirements of subrules 14.17(1) and 14.17(2):

*a.* IPERS shall review the deceased member's account and determine if there are moneys left to be distributed from the account.

*b.* IPERS shall pay the amounts owed, if any, to the probate court having jurisdiction over the decedent's estate, if the deceased member has an open estate.

*c.* IPERS shall pay the amounts owed, if any, to the probate court that had or would have had jurisdiction over the decedent's estate, if the deceased member's estate is closed or an estate was not opened.

*d.* As IPERS makes applicable payments, a copy of the written notice received by IPERS shall be filed with the probate court.

If the probate court charges a filing fee for the deposit of amounts payable hereunder, IPERS shall deduct such filing fees and other court costs from the amounts payable prior to transfer. The probate court shall hold the funds and, upon its determination, shall order disbursement or transfer in accordance with the determination. Additional filing fees and court costs, if any, shall be charged upon disbursement either to the recipient or against the funds on deposit with the probate court, in the discretion of the court.

**14.17(4)** *Release of claims.* Payments made to a probate court under this rule shall discharge IPERS from all claims by all persons for the value of amounts paid the court.

[**ARC 8601B**, IAB 3/10/10, effective 4/14/10; **ARC 8929B**, IAB 7/14/10, effective 6/21/10; **ARC 9068B**, IAB 9/8/10, effective 10/13/10]

**495—14.18(97B) Special rules for tax treatment of distributions to same gender spouse and same gender former spouse alternate payees.** Rescinded **ARC 1348C**, IAB 2/19/14, effective 3/26/14.

These rules are intended to implement Iowa Code sections 97B.1A(8), 97B.1A(18), 97B.1A(19), 97B.34, 97B.34A, 97B.44, 97B.52 and 97B.53B and 2000 Iowa Acts, chapter 1077, section 75.

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# CHAPTER 16
# DOMESTIC RELATIONS ORDERS AND OTHER ASSIGNMENTS
[Prior to 11/24/04, see 581—Ch 21]

**495—16.1(97B) Garnishments and income withholding orders.**

**16.1(1)** For the limited purposes of this rule, the term "member" includes IPERS members, beneficiaries, contingent annuitants and any other third-party payees to whom IPERS is paying a monthly benefit or a lump sum distribution.

**16.1(2)** A member's right to any payment from IPERS is not transferable or assignable and is not subject to execution, levy, attachment, garnishment, or other legal process, including bankruptcy or insolvency law, except for the purpose of enforcing child, spousal, or medical support.

**16.1(3)** Only members receiving payment from IPERS, including monthly benefits and lump sum distributions, may be subject to garnishment, attachment, or execution against funds that are payable. Such garnishment, attachment, or execution is not valid and enforceable for members who have not applied for and have not been approved to receive funds from IPERS.

**16.1(4)** Upon receipt of an income withholding order issued by the Iowa department of human services or a court, IPERS shall send a copy of the withholding order to the member. If a garnishment has been issued by a court, the party pursuing the garnishment shall send a notice pursuant to Iowa law to the member against whom the garnishment is issued.

**16.1(5)** IPERS shall continue to withhold a portion of the member's monthly benefit as specified in the initial withholding order until instructed by the court or the Iowa department of human services issuing the order to amend or cease payment. IPERS shall continue to withhold a portion of the member's monthly benefit as specified in the garnishment until the garnishment expires or is released.

**16.1(6)** Funds withheld or garnished are taxable to the member. IPERS may assess a fee of $2 per payment in accordance with Iowa Code section 252D.18A(2). The fee will be deducted from the gross amount, less federal and state income tax, before a distribution is divided.

**16.1(7)** A garnishment, attachment or execution may not be levied upon funds which are already the subject of a levy, including a levy placed upon funds by the United States Internal Revenue Service, unless the requirements of IRC Section 6334(a)(8) are met. Multiple garnishments, attachments and executions are allowed as long as the amount levied upon does not exceed the limitations prescribed in 15 U.S.C. Section 1673(b).

**16.1(8)** IPERS may release information relating to entitlement to funds to a court or to the Iowa department of human services prior to receipt of a valid garnishment, attachment, execution, or income withholding order when presented with a written request stating the information requested and reasons for the request. This request must be signed by a magistrate, judge, or child support recovery unit director or the director's designee, including an attorney representing the Iowa department of human services. In addition, IPERS may release information to the Iowa department of human services through automated matches.

**495—16.2(97B) Domestic relations orders.** This rule shall apply only to marital property orders. All support orders shall continue to be administered under rule 495—16.1(97B).

**16.2(1)** *Definitions.*

*"Alternate payee"* means a spouse or former spouse, regardless of gender, of a member who is recognized by a domestic relations order as having a right to receive all or a portion of the benefits payable by IPERS with respect to such member.

*"Benefits"* means, for purposes of this rule and depending on the context, a refund, monthly allowance (including monthly allowance paid as an actuarial equivalent (AE)), or death benefit payable with respect to a member covered under IPERS. "Benefits" does not include dividends payable under Iowa Code section 97B.49 or other cost-of-living increases unless specifically provided for in a QDRO.

*"Domestic relations order"* means any judgment, decree, or order which relates to the provision of marital property rights to a spouse or former spouse, regardless of gender, of a member and is made pursuant to the domestic relations laws of a state.

*"Member"* means, for purposes of this rule, IPERS members, beneficiaries, and contingent annuitants.

*"Qualified domestic relations order"* or *"QDRO"* means a domestic relations order that divides the marital property of opposite gender spouses and assigns to an opposite gender alternate payee the right to receive all or a portion of the benefits payable with respect to a member under IPERS and meets the requirements of this rule.

*"Successor alternate payee"* means a nonspouse person or persons named in a domestic relations order to receive the amounts payable to the former spouse alternate payee under the QDRO if the alternate payee dies before the member. Successor alternate payees must be named individuals, not a class of individuals, a trust or an estate.

*"Trigger event"* means a distribution or series of distributions of benefits made with respect to a member.

**16.2(2)** *Requirements.*

*a. Mandatory provisions.* A domestic relations order is a QDRO if such order:

(1) Clearly specifies the member's name and last-known mailing address, member identification number or social security number, and the names and last-known mailing addresses and social security numbers of alternate payees. This information shall be provided to IPERS on IPERS' Confidential Information form;

(2) Clearly specifies a fixed dollar amount or a percentage, but not both, of the member's benefits to be paid by IPERS to the alternate payee or the manner in which the fixed dollar amount or percentage is to be determined, provided that no such method shall require IPERS to perform present value calculations of the member's accrued benefit;

(3) Clearly specifies the period to which such order applies;

(4) Clearly specifies that the order applies to IPERS;

(5) Clearly specifies that the order is for purposes of making a property division; and

(6) Is clearly signed by the judge and filed with the clerk of court. IPERS will consider an order duly signed if it carries an original signature, a stamp bearing the judge's signature, electronic clerk of court stamp and judge's signature page via the electronic data management system (EDMS), or is conformed in accordance with local court rules.

*b. Prohibited provisions.* A domestic relations order is not a QDRO if such order:

(1) Requires IPERS to provide any type or form of benefit or any option not otherwise provided under Iowa Code chapter 97B;

(2) Requires IPERS to provide increased benefits determined on the basis of actuarial value;

(3) Requires the payment of benefits to an alternate payee which are required to be paid to another alternate payee under another order previously determined by IPERS to be a QDRO;

(4) Requires any action by IPERS that is contrary to its governing statutes or plan provisions;

(5) Awards any future benefit increases that are provided by the legislature, except as provided in subparagraph 16.2(2)*"c"*(2); or

(6) Requires the payment of benefits to an alternate payee prior to a trigger event.

*c. Permitted provisions.* A QDRO may also:

(1) If a trigger event has not occurred as of the date the order is received by IPERS, name an alternate payee as a designated beneficiary or contingent annuitant or require the payment of benefits under a particular benefit option, or both;

(2) Specify that the alternate payee shall be entitled to a fixed dollar amount or percentage of dividend payments, or cost-of-living increase or any other postretirement benefit increase to the member (all known as dividend payments), as follows:

1. If the court order awards a fixed dollar amount of benefits to the alternate payee, the dollar amount of dividend payments to be added or method for determining the dollar amount shall be stated in the court order or an award of a share of dividend payments shall be given no effect; and

2. If the court order awards a specified percentage of benefits to the alternate payee, IPERS shall add dividends to the alternate payee's share of the retirement allowance as necessary to keep the alternate payee's share of payments at the percentage specified in the court order;

(3) Bar a vested member from requesting a refund of the member's accumulated contributions without the alternate payee's written consent. If a member applies for a refund, a consent form will be sent to the alternate payee at the address of record at IPERS. The completed consent form must be received by IPERS within 60 days. If returned undeliverable or no response is received, the alternate payee's refund amount will be payable to the member. If returned marked "no consent," the refund will not be payable to either the member or alternate payee;

(4) Allow benefits to be paid to an alternate payee based on a period of reemployment for a retired member; and

(5) Name a successor alternate payee to receive the amounts that would have been payable to the member's former spouse alternate payee under the order, if the former spouse alternate payee dies before the member. A successor alternate payee may be an individual(s) or a trustee, so long as the relationship of the trustee is clearly defined in the order stating that payment to the trustee is to be made in the case when any of the named successor alternate payees in the order is a minor or is legally incompetent. Once a successor alternate payee reaches the age of majority, IPERS will make payment, not to the trustee, but to the successor alternate payee directly. The designation of a successor alternate payee in an order shall be void and be given no effect if IPERS does not receive confirmation of the successor's name, social security number, and last-known mailing address on IPERS' Confidential Information form. A QDRO that lists a series of default successor alternate payees by class or permits a successor alternate payee to designate additional successor alternate payees is not permitted and will be rejected. Once a QDRO is accepted by IPERS for administration, in order to change the designation of successor alternate payees, an amended order is required.

**16.2(3)** *Administrative provisions.*

*a.* IPERS uses the shared payment method for payments under a domestic relations order. IPERS will not create a separate account for the alternate payee or any successor alternate payee(s). Payment to the alternate payee (or successor alternate payee(s)) shall be in a lump sum if the member's benefits are paid in a lump sum distribution or as monthly payments if the member's benefits are paid under a retirement option. A member shall not be able to receive an actuarial equivalent (AE) under Iowa Code section 97B.48(1) unless the total benefit payable with respect to that member meets the applicable requirements. All divisions of benefits shall be based on the gross amount of monthly or lump sum benefits payable. Federal and state income taxes shall be deducted from the member's and former spouse alternate payee's respective shares and reported under their respective federal tax identification numbers. Unrecovered basis shall be allocated on a pro rata basis to the member and alternate payee. Federal and state income taxes shall be deducted from the member's gross payment when a nonspouse successor alternate payee(s) receives a payment. Federal and state income taxes shall be reported under the member's federal tax identification number. Unrecovered basis shall be allocated to the member.

*b.* The alternate payee shall not be entitled to any share of the member's death benefits except to the extent such entitlement is so provided in a QDRO or in a beneficiary designation filed subsequent to the dissolution.

*c.* If a QDRO directs the member to name the alternate payee under the order as a designated beneficiary, and the member fails to do so, the provisions of the QDRO awarding the alternate payee a share of the member's death benefits shall be deemed, except as revoked or modified in a subsequent QDRO, to operate as a beneficiary designation, and shall be given first priority by IPERS in the determination and payment of such member's death benefits. Death benefits remaining after payments required by the QDRO, to the extent possible, shall then be made according to the terms of the member's most recent beneficiary designation. If a QDRO does not require the member to select an option, the member is allowed to select any option at retirement, including an option that does not provide for payment of postretirement death benefits.

*d.* If an alternate payee has been awarded a share of the member's benefits and dies before the member, the entire account value shall be restored to the member unless otherwise specified in the order and in the manner required under this rule.

*e.* An alternate payee shall not receive a share of dividends or other cost-of-living increases, unless so provided in a QDRO.

*f.* The CEO, or CEO's designee, shall have exclusive authority to determine whether a domestic relations order is a QDRO. A final determination by the CEO, or CEO's designee, may be appealed in the same manner as any other final agency determination under Iowa Code chapter 97B.

*g.* A person who attempts to make IPERS a party or requires IPERS to appear as a witness to a domestic relations action in order to determine an alternate payee's right to receive a portion of the benefits payable to a member shall be liable to IPERS for its costs and attorney's fees.

*h.* A domestic relations order shall not become effective until it is approved by IPERS. If a member is receiving a retirement allowance at the time a domestic relations order is received by the system, the order shall be effective only with respect to payments made after the order is determined to be a QDRO. Payment to the alternate payee will be withheld from the member's payment the month the alternate payee's application is mailed by IPERS. If the member is not receiving a retirement allowance at the time a domestic relations order is approved by IPERS and the member applies for a refund or monthly allowance, or dies, no distributions shall be made until the respective rights of the parties under the domestic relations order are determined by IPERS. If IPERS has placed a hold on the member's account following written or verbal notification from the member, member's spouse, or legal representative of either party of a pending dissolution of marriage, and no further contacts are received from either party or their representatives within the following one-year period, or IPERS has not received and qualified a domestic relations order, IPERS shall release the hold.

*i.* IPERS and its staff shall have no liability for making or withholding payments in accordance with the provisions of this rule.

*j.* IPERS has no duty or responsibility to search for alternate payees. Alternate payees must notify IPERS of any change in their mailing addresses. IPERS shall mail the alternate payee an application once an application for a distribution has been received from the member and considered a complete application by IPERS. The application mailed by IPERS to the alternate payee states that, if the alternate payee does not return the application to IPERS within 60 days after the application is mailed by IPERS, the amounts otherwise payable to the alternate payee shall be paid to the member or the member's beneficiary(ies). If the member applied for a refund, and the alternate payee's application is not received within the 60 days, the alternate payee's share of the member's lump sum refund shall be paid to the member. If the member applies for a monthly pension payment, unless and until a valid application for the alternate payee's share of the monthly pension payments is received and accepted by IPERS, IPERS shall have no liability to the alternate payee with respect to payment of monthly amounts, nor will any retroactive payment be made if and when an application is received and accepted. All monthly payments in this case shall be prospective.

*k.* If a QDRO requires the member to select an option with joint and survivor provisions (Option 4 or 6) and name the alternate payee as contingent annuitant, the order must state the percentage in Option 4 or 6 to be payable to the alternate payee as contingent annuitant (the currently available percentages under Option 4 or 6 are 25, 50, 75 and 100 percent). Acceptable birth proof for the alternate payee as the named contingent annuitant, pursuant to 495—subrule 11.1(2), must also be provided to IPERS prior to approval of the order by IPERS.

*l.* For both lump sum and monthly payments, the alternate payee's tax withholding and rollover elections, if eligible, must be received before the first or current month's benefit is certified for payment or IPERS will use the applicable default tax withholding elections.

*m.* If an order that is determined to be a QDRO divides a member's account using a service factor formula and the member's IPERS benefits are based on a number of quarters less than the member's total covered quarters, notwithstanding any terms of the order to the contrary, IPERS shall limit the number of quarters used in the numerator and the denominator of the service fraction to the number of quarters actually used in the calculation of IPERS benefits, not to exceed 120 quarters for special service members and 140 quarters for regular and hybrid members. IPERS will not accept or administer a service factor formula fraction in excess of 1.

*n.* Service credit that is purchased during the period when the member is married to the alternate payee shall be added to the numerator and the denominator of the service fraction when calculating the service factor pursuant to a domestic relations order. Service credit that is purchased during a period

when the member is not married to the alternate payee shall only be added to the denominator of the service fraction when calculating the service factor pursuant to a domestic relations order. Under no circumstances shall the number of quarters in the denominator be more than the number of quarters used to calculate the member's benefit. Service purchase after retirement shall not increase or decrease the alternate payee's payment amount that was deducted and was payable at the time of retirement.

*o.* The parties or their attorneys in a dissolution action involving an IPERS member shall decide between themselves which attorney will submit a proposed domestic relations order to IPERS for review. IPERS shall not review a proposed order that has not been approved as to form by both parties or their counsel by enclosure of the Administrative Rule Compliance for QDROs form. A rejection under this paragraph shall not preclude IPERS from placing a hold on a member's account until the status of a proposed order as a QDRO is resolved or the hold is released pursuant to the terms of paragraph 16.2(3)*"h."*

*p.* If a member has filed for and is receiving monthly pension benefits, or wishes to file an application for retirement or a refund and has a qualified domestic relations order pending on the member's account, the parties (the member and the alternate payee or their counsel of record) may execute a waiver of the 30-day appeal period following review and qualification of the member's domestic relations order, using a form approved by the system.

*q.* If a member with an IPERS-approved QDRO is receiving a distribution according to a qualified benefits arrangement (QBA), the alternate payee shall share in the distribution to the member unless the order specifically states otherwise.

[**ARC 8601B**, IAB 3/10/10, effective 4/14/10; **ARC 8929B**, IAB 7/14/10, effective 6/21/10; **ARC 9068B**, IAB 9/8/10, effective 10/13/10; **ARC 9397B**, IAB 2/23/11, effective 3/30/11; **ARC 0662C**, IAB 4/3/13, effective 5/8/13; **ARC 1348C**, IAB 2/19/14, effective 3/26/14; **ARC 1887C**, IAB 2/18/15, effective 3/25/15]

These rules are intended to implement Iowa Code sections 97B.4, 97B.15, 97B.25, 97B.38 and 97B.39.

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# CHAPTER 17
# PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

**495—17.1(17A,22) Definitions.** As used in this chapter:

*"Confidential record"* means a record which is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information as described in Iowa Code section 97B.17, and records, or information contained in records, that are specified in Iowa Code section 22.7, or by other provision of law.

*"Custodian"* means the CEO or designee.

*"Open record"* means a record other than a confidential record.

*"Personally identifiable information"* means information about or pertaining to an individual in a record which identifies the individual and which is contained in a record system under the jurisdiction of the agency.

*"Record"* means all or part of a "public record" as defined in Iowa Code section 22.1 or 97B.17 which is owned by or in the physical possession of the agency. IPERS also defines a record as information stored or preserved regardless of physical form. Record content, not record form, determines whether or not information constitutes a record. Any information documenting official final business, whether recorded on paper, reproduced on microfilm, entered in an electronic database, documented photographically, recorded in video or audio media, or documented using any other medium, constitutes a record. A record that is not confidential or otherwise exempt by federal or state law is termed an open record.

*"Record system"* means any group of records under the jurisdiction of the agency from which a confidential record or information may be retrieved.

[**ARC 1887C**, IAB 2/18/15, effective 3/25/15]

**495—17.2(17A,22) Statement of policy, purpose and scope.** The purpose of this chapter is to facilitate public access to open records. It also seeks to facilitate agency determinations with respect to the handling of confidential records and the implementation of the fair information practices Act. This chapter implements Iowa Code section 22.11 by establishing rules, policies, and procedures for the maintenance of employee, member, and other records in the possession of and under the jurisdiction of the agency.

**495—17.3(17A,22) Requests for access to records.**

**17.3(1)** *Location of record.* A request for access to a record under the jurisdiction of the agency shall be directed to the CEO or designee, Iowa Public Employees' Retirement System (IPERS), 7401 Register Drive, P.O. Box 9117, Des Moines, Iowa 50306-9117.

**17.3(2)** *Office hours.* Records shall be made available during all customary office hours which are from 8 a.m. to 4:30 p.m., excluding officially designated holidays.

**17.3(3)** *Request for access.* Requests for access to open records may be made in writing, by telephone, electronically or in person. All requests shall include the name, address, telephone number, and the E-mail address (if available) of the person requesting the information. All requests for information regarding member accounts must contain the member's identification number or social security number. Requests shall identify the particular records sought by name or other personal identifier and shall include a description in order to facilitate the location of the record. A person shall not be required to give a reason for requesting an open record. The request shall indicate the maximum search fee the requester is prepared to pay. If the maximum amount is reached before the requested records have been located and copied, the requester shall be notified and asked for further directions.

**17.3(4)** *Response to requests.* The custodian is authorized to grant or deny access to agency records according to the provisions of this chapter. The decision to grant or deny access may be delegated to one or more designated employees.

Access to an open record shall be provided promptly upon request, unless the size or nature of the request makes prompt access impractical. However, access to an open record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4). The custodian shall inform the

requester of the reason for the delay and an estimate of the length of that delay and, upon request, shall provide a written reply.

The custodian may deny access to the record or information in the record by members of the public only on the grounds that a denial is warranted under Iowa Code section 22.8(4) or 22.10(4), or that it is a confidential record or information, or that its disclosure is prohibited by a court order. Access by members of the public to a confidential record or information is limited by law and, therefore, may generally be provided only in accordance with the provisions of rule 495—17.4(97B) and other applicable provisions of law.

**17.3(5)** *Security of record.* Individuals will not be given access to the area where the records are kept. All examination and copying of records shall be done under supervision. Records shall be protected from damage and disorganization.

**17.3(6)** *Copying.* A reasonable number of copies may be made at IPERS. If the number of copies is prohibitive or the copying equipment is not available, IPERS may arrange to have copies made elsewhere subject to costs.

**17.3(7)** *Fees.*

*a. When charged.* The agency is authorized to charge fees in connection with the retrieval, restoration, supervision, compiling and copying of records in accordance with Iowa Code section 22.3. To the extent permitted by applicable provisions of law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

*b. Copying and postage costs.* Price schedules for published records and for copies of records supplied by the agency shall be posted in the agency. Copies of records may be made by or for members of the public at cost, as determined by and posted in the agency. When the mailing of copies of records is requested, the actual costs of mailing may also be charged to the requester.

*c. Search and supervisory fee.* A fee may be charged for actual expenses in retrieval, restoration, compiling and supervising the examination and copying of requested records. The fee shall be based on the hourly rate of pay of an agency employee who ordinarily would be appropriate and suitable to perform this function and shall be posted in the agency. No fee shall be charged if the records are not made available for inspection. The requester shall be given advance notice of the hourly rate that will be charged in connection with the retrieval, restoration, supervision, compilation and copying of records.

*d. Computer-stored information.* A fee, as described in the paragraph above, may be charged for the actual expenses related to the retrieval, restoration and copying of information stored in electronic records. IPERS shall not create custom software to elicit information that is not readily available or accessible on the electronic systems as a normal business function.

*e. Advance payments.*

(1) When the estimated fee chargeable under this subrule exceeds $25, the requester shall be required to make an advance payment of the estimated fee. Upon completion of the request for records, the actual fee shall be calculated and the difference refunded or collected.

(2) When a requester has previously failed to pay a fee charged under this subrule, full advance payment of future estimated fees of any amount may be required before processing a new or pending request for access to records from that requester.

**495—17.4(17A,22) Access to confidential records.** Under Iowa Code sections 22.7, 97B.17 or other applicable provisions of law, the custodian may disclose certain confidential records to members of the public. Other provisions of law may authorize or require the custodian to release specified confidential records or information under certain circumstances or to particular persons. The following procedures apply to requests for the custodian to permit the examination or copying of a confidential record and are in addition to those specified for requests for access to records in rule 17.3(17A,22).

**17.4(1)** *Proof of identity.* A person requesting access to a confidential record shall be required to provide proof of identity satisfactory to the custodian.

**17.4(2)** *Requests.* A request for access to a confidential record shall be in a form acceptable to the agency. A person requesting access to a confidential record shall be required to sign a statement

enumerating the specific grounds alleged to justify access and provide any proof necessary to establish relevant facts.

**17.4(3)** *Notice to subject of record and opportunity to obtain injunction.* After the custodian receives a request for access to a confidential record, and before the custodian releases that record, the custodian may make reasonable efforts to notify any person who is a subject of that record, is identified in that record, and whose address, telephone number, or other personal identifier is contained in that record. The custodian shall give the subject of that confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8 and indicate to the subject of that record the specified period of time during which disclosure will be delayed for that purpose.

**17.4(4)** *Request denied.* When the custodian denies a request for access to a confidential record, in whole or in part, the custodian shall notify the requester in writing. The denial shall be signed by the custodian of the record and shall include:

*a.* The name and title of the person responsible for the denial; and

*b.* A citation to the statute or other provision of law which prohibits disclosure of the record; or

*c.* A citation to the statute vesting discretion in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to the requester.

**17.4(5)** *Request granted.* When the custodian grants a request for access to a confidential record to a particular person, the custodian shall notify that person and indicate any lawful restrictions imposed by the custodian on that person's examination and copying of the record.

**495—17.5(17A,22) Requests for treatment of a record as a confidential record and its withholding from examination.** The custodian may treat a record as confidential and withhold it from examination only to the extent that the custodian is authorized to refuse to disclose the record to members of the public by Iowa Code section 22.7 or 97B.17, another applicable provision of law, or in response to a court order.

**17.5(1)** *Persons who may request.* Any person who would be aggrieved or adversely affected by disclosure of all or a part of a record under the jurisdiction of the agency to members of the public and who asserts that Iowa Code section 22.7 or 97B.17, another applicable provision of law, or a court order authorizes the custodian to treat the record as a confidential record, may file a request, as provided for in this rule, for its treatment as a confidential record and to withhold it from public inspection.

**17.5(2)** *Request.* A request for the treatment of a record as a confidential record shall be in writing and shall be filed with the custodian. The request shall include an enumeration of the specific reasons justifying confidential record treatment for all or part of that record, the specific provisions of law that authorize confidential record treatment in this instance, and the name, mailing address, telephone number and, if available, the E-mail address of the person authorized to respond to any action concerning the request. If the information is regarding an IPERS member, the member identification number or social security number of the member must be included. The person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit enumerating the specific reasons justifying the treatment of the record as a confidential record and to provide any proof necessary to establish relevant facts. The person filing a request shall, if possible, accompany the request with a redacted copy of the record in question for which confidential record treatment has been requested. If the original record is submitted at the same time the request is filed, the person shall indicate conspicuously on the original record which portions of it are requested to be confidential. Requests for treatment of all or portions of a record as confidential for a limited time period shall also specify the precise period of time for which confidential record treatment is requested.

**17.5(3)** *Failure to request.* Failure of a person to request confidential record treatment for a record or confidential information contained in a record shall not preclude the custodian from treating it as a confidential record or the confidential information contained in that record as permitted under Iowa Code section 22.7 or 97B.17. However, if a person who has submitted information does not request confidential record treatment under the provisions of Iowa Code sections 22.7(3) (trade secrets), 22.7(6) (advantage to competitors), and 22.7(18) (communications not required by law, rule, procedure or contract), the custodian of records containing that information may, but is not required to, proceed as if that person has no objection to its disclosure to members of the public.

**17.5(4)** *Timing of decision.* A decision by the agency with respect to the disclosure of all or part of a record under its jurisdiction to members of the public may be made when a request for its treatment as a confidential record is filed or when a request is received for access to the record by a member of the public.

**17.5(5)** *Request granted or deferred.* If a request for a confidential record or information is granted, or if action on a request is deferred, a copy of the record from which the material in question has been deleted and a copy of the decision to grant the request or to defer action on the request will be placed in the original file, and will be made available for public inspection. If a request is subsequently received for access to the original record, reasonable and timely efforts will be made to notify any person who has filed a request for its treatment as a confidential record.

**17.5(6)** *Request denied and opportunity to seek injunction.* If a request that a record be treated as a confidential record and be withheld from public inspection is denied, the custodian shall notify the requester in writing of the reasons for that determination. On application by the requester, the custodian may engage in a good-faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief under the provisions of Iowa Code section 22.8, or other applicable provision of law. However, a record shall not be withheld from public inspection for any period of time if the custodian determines that the requester had no reasonable grounds to justify the treatment of that record as a confidential record. The custodian shall notify requester in writing of the time period allowed to seek injunctive relief or the reasons for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period of good-faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, or if a court directs the custodian to treat it as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

**495—17.6(17A,22) Procedure by which a person who is the subject of a record may have additions, dissents, or objections entered into certain records.** Except as otherwise provided by law, the subject of a record may file a request with the custodian to review and to have the right to have written additions, dissents, or objections entered into a record under the jurisdiction of the agency. However, this does not authorize a person who is a subject of a record to alter the original copy of the record or to expand the official record of an agency proceeding. The subject shall send the request to review a record or the written statement of additions, dissents or objections to the agency. Additions, dissents, or objections must be dated and signed by the subject, and shall include the current mailing address, telephone number and, if available, the E-mail address of the subject or the subject's representative. The subject's social security number must also be included on the addition.

**495—17.7(17A,22) Consent to disclosure by the subject of a confidential record.** To the extent permitted by any applicable provision of law, the subject of a confidential record under the jurisdiction of the agency may consent to disclosure to a third party of that portion of the record concerning the subject except as provided in subrule 17.12(1). The consent must be in writing and must identify the particular record or records that may be disclosed, the particular person or class of persons to whom the record may be disclosed and, where applicable, the time period during which the record or information may be disclosed. The subject and, where applicable, the person to whom the record is to be disclosed, must provide proof of identity. Appearance of legal counsel, or a duly appointed representative on behalf of a subject of a confidential record, is deemed to constitute consent for the agency to disclose records about that person to the person's representative.

**495—17.8(17A,22) Notice to suppliers of information.** When the agency requests a person to supply information about that person, the agency shall notify the person of the use that will be made of the information, which persons outside the agency might routinely be provided the information, which parts of the requested information are required and which are optional, and the consequences of a failure to provide the information requested. This notice may be given in rules, on the written form used to collect

the information, on a separate fact sheet or letter, in brochures, in formal agreements, in contracts, in handbooks, in manuals, verbally, or by other appropriate means.

**495—17.9(17A,22) Disclosures without the consent of the subject.**

**17.9(1)** Open records shall be routinely disclosed without the consent of the subject.

**17.9(2)** To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

*a.* For a routine use as defined in rule 495—17.10(97B) or in the notice for a particular record system.

*b.* To a recipient who has provided advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.

*c.* To another government agency or to an instrumentality of any government jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the authorized representative of the government agency or instrumentality has submitted a written request to the custodian specifying the record desired and the law enforcement activity for which the record is sought.

*d.* To an individual following a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known mailing address of the subject.

*e.* To the legislative services agency.

*f.* In the course of employee disciplinary proceedings.

*g.* In response to a court order or subpoena.

**495—17.10(17A,22) Routine use.**

**17.10(1)** Defined. "Routine use" means the disclosure of a record, without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required or permitted to be made by statute other than the public records law, Iowa Code chapter 22.

**17.10(2)** To the extent allowed by law, the following uses are considered routine uses of all agency records:

*a.* Disclosure to officers, employees and agents of the agency who have a need for the record in the performance of duties. The CEO or designee shall resolve disputes concerning what constitutes legitimate need to use confidential or exempt records.

*b.* Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

*c.* Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of an agency.

*d.* Transfers of information within an agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

*e.* Information released to staff of federal, state, or other governmental entities for audit purposes or for purposes of determining whether an agency is operating a program lawfully.

*f.* Any disclosure specifically authorized by the statute under which the record was collected or maintained.

*g.* Disclosure to officers, employees and agents of the agency who need to use the record to determine the named beneficiary when a wage earner or retiree dies; to maintain a record of wages reported and quarters worked for computation of benefits; to track benefits received; to recompute and adjust benefits; to update information for electronic deposit of benefits; to audit payroll reports; and to verify quarterly update of wages paid.

**495—17.11(17A,22) Consensual disclosure of confidential records.**

**17.11(1)** *Consent to disclosure by a subject individual.* The subject may consent in writing to disclosure of confidential records as provided in rule 495—17.7(97B).

**17.11(2)** *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves a record under the jurisdiction of the agency may be treated as an authorization to release sufficient information about the subject to the official to resolve the matter. The public official shall be required to treat the information received as confidential.

**17.11(3)** *Obtaining information from a third party.* The agency may be required to obtain information to coordinate benefits, verify applicant and employee information or to provide other services. Requests to third parties for this information may involve the release of confidential identifying information about individuals contained in records under the jurisdiction of the agency. Such requests are within the meaning of routine use as defined in rule 495—17.10(97B) and shall not require authorization from the subject of the record.

**495—17.12(17A,22) Release to subject.**

**17.12(1)** Records shall be released to the subject of a confidential record upon a written request from the subject. The agency need not release the following records or information to the requester:

*a.* The identity of a person providing information about the requester when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18).

*b.* Records that are the work products of an attorney or are otherwise privileged.

*c.* Peace officers' criminal investigative reports except as required by the Iowa Code. See Iowa Code section 22.7(5).

*d.* As otherwise authorized by law or covered as an investigative request required by the system.

**17.12(2)** Where a record has multiple persons with interest in the confidentiality of the record, reasonable steps shall be taken to protect confidential information relating to other persons in the record.

**495—17.13(17A,22) Availability of records.**

**17.13(1)** *Open records.* Records under the jurisdiction of the agency are open for public inspection and copying unless otherwise provided by these rules.

**17.13(2)** *Confidential records.* The following records under the jurisdiction of the agency may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

*a.* Sealed bids received prior to the time set for public opening of bids. See Iowa Code section 72.3.

*b.* Procurement proposals prior to completion of the evaluation process and the issuance of a notice of intent to award a contract, provided that, if requests for proposals are canceled prior to the issuance of a notice of intent to award, all procurement proposals shall be returned in confidence to the bidders and no file copies shall be retained.

*c.* Tax records made available to the agency.

*d.* Records which are exempt from disclosure under Iowa Code sections 22.7 and 97B.17, including, but not limited to:

(1) Communications not required by rule, law, procedure or contract to the extent that the agency reasonably believes that such communications would not be made if the supplier knew the information would be made available for general public examination. These records are confidential under Iowa Code section 22.7(18).

(2) Data processing software, as defined in Iowa Code section 22.3A, which is developed by a governmental body.

(3) Log-on identification passwords, Internet protocol addresses, private keys, or other records containing information which might lead to disclosure of private keys used in a digital signature or other similar technologies as provided in Iowa Code chapter 554D.

(4) Records which if disclosed might jeopardize the security of an electronic transaction pursuant to Iowa Code chapter 554D.

*e.* Minutes of closed meetings of a government body under Iowa Code section 21.5(4).

*f.* Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1)*"e."*

*g.* Those portions of agency manuals, examination materials, instructions or other statements issued which set forth criteria or guidelines to be used in auditing, in making inspections, in settling commercial disputes or negotiating commercial contract arrangements, or in the selection or handling of cases, such as operational tactics on allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of these statements would:

(1) Enable law violators to avoid detection;

(2) Facilitate disregard of requirements imposed by law; or

(3) Give a clearly improper advantage to persons who are in an adverse position to the agency.

*h.* Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4) and 622.10, Iowa R.C.P. 1.503, Fed. R.Civ.P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code section 622.10, the rules of evidence, the Code of Professional Responsibility, and case law.

*i.* Any other records made confidential by law.

**17.13(3)** *Authority to release confidential records.* The agency, under certain circumstances, may disclose some information or confidential records which otherwise are exempt from disclosure under Iowa Code sections 22.7 and 97B.17, or other law. Any person may request permission to inspect particular records withheld from inspection as confidential records. If it is initially determined that records will be released, reasonable efforts will be made, where appropriate, to notify interested persons, and the records may be withheld from inspection for up to ten days to allow interested persons to seek injunctive relief.

**495—17.14(17A,22) Personally identifiable information.** This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by personal identifier in record systems defined in rule 495—17.1(97B). For each record system, this rule describes the legal authority for the collection of that information and the means of storage of that information, and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system. Record systems under the jurisdiction of the agency that are retrievable through the use of personal identifiers are described as follows:

**17.14(1)** *IPERS personnel files and records.* Personnel files of IPERS employees are maintained and kept under the jurisdiction of the agency and contain personal, private, and otherwise confidential records under Iowa Code section 22.7(11). It is unlikely that the personal and private information in these records can be separated from otherwise releasable information without identifying the subject or the employee's family. These records contain names, social security numbers and other identifying numbers, and are collected in the form of paper, microfilm, tape, and computer records. Data processing systems permit the comparison of personally identifiable information in one record system with that in another system.

**17.14(2)** *Iowa public employees' retirement system.* The retirement system possesses records that concern individual public employees who are covered by IPERS and their families. Records are collected in accordance with Iowa Code chapter 97B and are confidential records in part under Iowa Code sections 22.7 and 97B.17. These records contain names, addresses, social security numbers, and other identifying numbers, and are collected in the form of paper, microfilm, tape, and computer records. Data processing systems permit the comparison of personally identifiable information in one record system with that in another system.

**17.14(3)** *Vendor contracts.* These are records pertaining to facilities management, training, investment management, and other services. These records are collected in accordance with Iowa Code

chapter 97B and are confidential records in part under Iowa Code section 22.7. These records contain names, addresses, social security numbers, and other identifying numbers, and are collected in the form of paper, microfilm, tape, and computer records. Data processing systems permit the comparison of personally identifiable information in one record system with that in another system.

**495—17.15(17A,22) Other groups of records routinely available for public inspection.** This rule describes groups of records maintained by the agency other than those record systems retrieved by personally identifiable information as defined in rule 495—17.1(97B). These records are routinely available to the public subject to costs. However, these records may contain confidential information. In addition, the records listed in subrules 17.15(1) to 17.15(4), 17.15(6), and 17.15(9) may contain information about individuals. All records may be stored on paper, microfilm, tape or in automated data processing systems unless otherwise noted.

**17.15(1)** Rule-making records. Rule-making records may identify individuals making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4. Public documents generated during the promulgation of agency rules, including notices and public comments, are available for public inspection. This information is not retrieved by individual identifier.

**17.15(2)** Board and committee records. Agendas, minutes, and materials presented to the board and committee within the agency are available from the agency except those records concerning closed sessions which are exempt from disclosure under Iowa Code section 21.5(4) or which are otherwise confidential by law. These records may identify individuals who participate in meetings. This information is collected pursuant to Iowa Code section 21.3. This information is not retrieved by individual identifier.

**17.15(3)** Publications. News releases, annual reports, final project reports, newsletters, and brochures describing various programs are available from the agency. These publications may contain information about individuals, including staff or members of the board or committee. This information is not retrieved by individual identifier.

**17.15(4)** Statistical reports. Periodic reports of activity for various department programs are available from the department. This information is not retrieved by individual identifier.

**17.15(5)** Appeal decisions and advisory opinions. All final orders, decisions and opinions are open to the public except for information that is confidential according to rule 495—17.5(97B) or subrule 17.13(2). These records, collected under the authority of Iowa Code chapters 97B and 97C, may contain confidential information about individuals.

**17.15(6)** Published materials. The agency uses many legal and technical publications in its work. The public may inspect these publications upon request. Some of these materials may be protected by copyright laws. This information is not retrieved by individual identifier.

**17.15(7)** Policy manuals. The agency's manuals containing the policies and procedures for programs administered by the agency are available at IPERS' headquarters. This information is not retrieved by individual identifier.

**17.15(8)** Administrative records. These are records related to the budgets of the agency, the requisition of equipment and supplies, the payment of claims, and other accounting functions as well as records kept by the investments section, including information on investment policies and portfolios. Some investment information is partially confidential under Iowa Code sections 22.7 and 97B.17.

**17.15(9)** All other records not exempted from disclosure by law.

**495—17.16(17A,22) Comparison of data processing systems.** To the extent required by law, all data processing systems used by the agency permit the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

**495—17.17(17A,22) Applicability.** This chapter does not:

1. Make available to the general public records which contain information about individuals by that person's name or other personal identifier.

2. Make records available to the general public which would otherwise not be available under the public records law, Iowa Code chapter 22 and Iowa Code section 97B.17.

3. Govern the maintenance or disclosure of, notification of, or access to records in the possession of the agency which are under the jurisdiction of another agency.

4. Apply to grantees, including local governments or their subdivisions, administering state-funded programs unless otherwise provided by law or agreement.

5. Make available records compiled in reasonable anticipation of court litigation or formal administrative proceedings. The availability of those records to the general public or to any individual or party to litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable regulations of the agency.

6. Require the agency to create, compare or procure a record solely for the purpose of making it available.

These rules are intended to implement Iowa Code chapter 97B.

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# PUBLIC HEALTH DEPARTMENT[641]

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**641—62.1(85GA,ch1116) Military service and veteran reciprocity.** The board hereby adopts by reference 641—Chapter 196, "Military Service and Veteran Reciprocity," Iowa Administrative Code.
[**ARC 1874C**, IAB 2/18/15, effective 3/25/15]

This rule is intended to implement 2014 Iowa Acts, chapter 1116, division VI.

[Filed ARC 1874C (Notice ARC 1669C, IAB 10/15/14), IAB 2/18/15, effective 3/25/15]

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Rules transferred from agency number 680 to 661 to conform with the reorganization numbering scheme in general


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# CHAPTER 226
# LIQUEFIED PETROLEUM GAS

[Prior to 5/23/07, see rules 661—51.100(101) to 661—51.102(101)]

**661—226.1(101) General requirements.** The provisions of the National Fire Protection Association, NFPA 54, ANSI Z223.1-2015 National Fuel Gas Code, 2015 edition, and NFPA 58, Liquefied Petroleum Gas Code, 2014 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-7471, and all references contained therein, are hereby adopted by reference as the general requirements for transportation, storage, handling, and use of liquefied petroleum gas, with the following amendments:

Amend NFPA 54, ANSI Z223.1-2015 National Fuel Gas Code, 2015 edition, as follows:

Delete section 7.3.5.2 and insert in lieu thereof the following new section:

**7.3.5.2** Gas piping underground, outside a building, shall not be in physical contact with any concrete. Where it is necessary to install piping that will extend through or under an exterior concrete slab for connection to a regulator or other part of the system, before entering a building, the gas piping shall be sleeved. The sleeve shall extend through the concrete and be sealed only at the end extending above grade to prevent the entrance of insects, debris, or moisture. All piping, fittings, and risers shall be protected against corrosion in accordance with NFPA 54, National Fuel Gas Code, 2015 edition, section 5.6.6.

Delete section 8.2.1 and insert in lieu thereof the following new section:

**8.2.1** Leak checks using fuel gas (propane vapor) shall be permitted in piping systems that have been pressure-tested in accordance with 661—subrule 226.5(1).

Amend NFPA 58, Liquefied Petroleum Gas Code, 2014 edition, as follows:

Properties of LP-gases shall be determined in accordance with Annex B of NFPA 58.

Delete section 4.3.1 and insert in lieu thereof the following new section:

**4.3.1** Stationary installations. Where a stationary installation utilizes a storage container of more than 2,000 gallons (7,570 L) of individual water capacity, or the aggregate water capacity of storage containers is more than 4,000 gallons (15,140 L) in water capacity, the installer shall submit plans (Liquid Propane Plan – DIVISION OF STATE FIRE MARSHAL) for such installation to the state fire marshal for review and approval. Installation shall not commence until written approval from the state fire marshal has been received. The local fire department [city or county where the tank(s) is located] shall be advised of each installation.

Delete section 5.2.3 and insert in lieu thereof the following new section:

**5.2.3** Cylinders filled on site at the point of use.

**5.2.3.1** DOT cylinders in stationary service that are filled on site at the point of use and, therefore, are not under the jurisdiction of DOT shall comply with one of the following criteria:

(1) The cylinders shall be requalified in accordance with DOT requirements.

(2) The cylinders shall be visually inspected within 12 years of the date of manufacture and within every 5 years thereafter, in accordance with 5.2.3.2 through 5.2.3.4.

**5.2.3.2** Any cylinder that fails to meet one or more of the criteria in 5.2.3.4 shall not be refilled or continued in service until the condition is corrected.

**5.2.3.3** Personnel shall be trained and qualified to perform inspections. Training shall be documented in accordance with rule 661—226.4(101).

**5.2.3.4** Visual inspection shall be performed in accordance with the following:

(1) The cylinder is checked for exposure to fire, dents, cuts, digs, gouges, and corrosion according to CGA C-6-2007, Standard for Visual Inspection of Steel Compressed Gas Cylinders, tenth edition, except that 5.2.1.1(1) of that standard (which requires tare weight verification) shall not be part of the required inspection criteria.

(2) The cylinder protective collar (where utilized) and the foot ring are intact and are firmly attached.

(3) The cylinder is painted or coated to minimize corrosion.

(4) The cylinder pressure relief valve indicates no visible damage, corrosion of operating components, or obstructions.

(5) There is no leakage from the cylinder or its appurtenances that is detectable without the use of instruments.

(6) The cylinder is installed on a firm foundation and is not in contact with the soil.

(7) A cylinder that passes the visual examination is marked with the month and year of the examination followed by the letter E (e.g., "10-01E," indicating requalification in October 2001 by the external inspection method) and the requalifier identification number (RIN) in accordance with the requalifying agency's permit issued by the DOT.

(8) The results of the visual inspection are documented, and a record of the inspection is retained for a 5-year period or until the cylinder is again requalified, whichever occurs first.

Delete section 6.6.7.1 and insert in lieu thereof the following new section:

**6.6.7.1** Installation of permanent, stationary containers on roofs of buildings shall be prohibited.

Delete section 6.6.7.2.

Delete section 6.7.2.7 and insert in lieu thereof the following new section:

**6.7.2.7** The pressure relief valve discharge on each aboveground container of more than 2000-gal (7.6 $m^3$) water capacity shall be piped vertically upward to a point at least 7 ft (2.1 m) above the top of the container, and the discharge opening shall be unobstructed to the open air.

Delete section 6.9.3.14 and insert in lieu thereof the following new section:

**6.9.3.14** Metallic piping shall be protected against corrosion in accordance with 6.9.3.14(A) through 6.9.3.14(C). Underground gas piping that is outside a building shall not be in physical contact with any concrete.

(A) Piping and tubing of 1-inch (25 mm) nominal diameter or smaller shall be protected in accordance with 6.17.1 or 6.17.2.

(B) Piping and tubing larger than 1-inch (25 mm) nominal diameter and installed aboveground shall be protected in accordance with 6.17.1.

(C) Steel piping larger than 1-inch (25 mm) nominal diameter installed underground shall have a cathodic protection system in accordance with 6.17.2(C) unless technical justification is approved by the authority having jurisdiction.

Delete section 6.14 in its entirety.

Delete section 6.15 in its entirety.

Delete paragraph 6.20.1.2(C) and insert in lieu thereof the following new paragraph:

**6.20.1.2(C)** Cylinders installed permanently on roofs of buildings shall be prohibited.

Delete section 6.20.11.1, including paragraphs (A) through (F), and insert in lieu thereof the following new section:

**6.20.11.1** Cylinders installed permanently on roofs of buildings shall be prohibited.

Delete section 6.20.11.2.

Delete section 7.2.1.1 and insert in lieu thereof the following new section:

**7.2.1.1** Transfer operations shall be conducted by qualified personnel meeting the provisions of rule 661—226.4(101).

Delete section 11.2 and insert in lieu thereof the following new section:

**11.2** Each person engaged in installing, repairing, filling, or otherwise servicing an LP-gas engine fuel system shall be trained in accordance with rule 661—226.4(101) and trained under the applicable installation and maintenance procedures established by the manufacturer.

[**ARC 9235B**, IAB 11/17/10, effective 1/1/11; **ARC 1868C**, IAB 2/18/15, effective 3/25/15]

**661—226.2(101) Transfer into container.** No person shall transfer any liquefied petroleum gas into a container, regardless of the container's size, if the container has previously been used for the storage of any other product until the container has been thoroughly purged, inspected for contamination, provided with proper appurtenances, and determined suitable for use as a container for liquefied petroleum gas as prescribed in the standards established under rule 661—226.1(101).

**661—226.3(101) Prohibition of certain refrigerants.** The distribution, sale or use of refrigerants containing liquefied petroleum gas, as defined in Iowa Code section 101.1, for use in mobile air-conditioning systems is prohibited.

**661—226.4(101) Qualifications of personnel.**

**226.4(1)** Persons who transfer liquefied petroleum gas, who are employed to transport liquefied petroleum gas, or whose primary duties fall within the scope of this chapter shall be trained in proper handling and emergency response procedures.

*a.* Training shall include both initial training and refresher training that addresses but is not limited to safe work practices, the health and safety hazards of liquefied petroleum gas, emergency response procedures, and supervised on-the-job training.

(1) Initial training shall include participation in a training program and shall include both a written qualification assessment (closed-book test) and a skills assessment, based on the objectives set forth in the recognized training program and the requirements of NFPA 54 National Fuel Gas Code, 2015 edition, NFPA 58 Liquefied Petroleum Gas Code, 2014 edition, and any applicable requirements established in this chapter.

(2) Refresher training shall include both a written qualification assessment (closed-book test) and a hands-on skills assessment based on requirements of NFPA 54 National Fuel Gas Code, 2015 edition, NFPA 58 Liquefied Petroleum Gas Code, 2014 edition, and any applicable requirements established in this chapter.

(3) The written qualification assessment shall be proctored through the training agency providing the refresher training or another qualified party.

(4) The hands-on skills assessment shall be completed by the training agency or another qualified party and shall include a verification of completion that shall be signed by the individual completing the required skills and the skills evaluator.

(5) Refresher training shall be provided at least every three years.

*b.* All training shall be documented. Documentation shall be maintained by the current employer of the person receiving the training.

**226.4(2)** Persons who install, service, test, or maintain propane gas utilization equipment, or gas piping systems of which the equipment is a part, or accessories shall be trained in the proper procedures in accordance with applicable codes.

*a.* Initial training shall include participation in a training program and shall include both a written qualification assessment (closed-book test) and a skills assessment, based on the objectives set forth in the recognized training program and the requirements of NFPA 54 National Fuel Gas Code, 2015 edition, NFPA 58 Liquefied Petroleum Gas Code, 2014 edition, and this chapter.

*b.* Refresher training shall include both a written qualification assessment (closed-book test) and a hands-on skills assessment based on requirements of NFPA 54 National Fuel Gas Code, 2015 edition, NFPA 58 Liquefied Petroleum Gas Code, 2014 edition, and this chapter.

*c.* The written qualification assessment shall be proctored through the training agency providing the refresher training or another qualified party.

*d.* The hands-on skills assessment shall be completed by the training agency or another qualified party and shall include a verification of completion that shall be signed by the individual completing the required skills and the skills evaluator.

*e.* Refresher training shall be provided at least every three years.

*f.* All training shall be documented. Documentation shall be maintained by the current employer of the person receiving the training.

**226.4(3)** All training programs shall be instructor-led by a competent trainer.

**226.4(4)** Successful completion of the written qualification assessment and hands-on skills assessment shall satisfy the refresher training requirements of subrules 226.4(1) and 226.4(2).

[**ARC 9235B**, IAB 11/17/10, effective 1/1/11; **ARC 1868C**, IAB 2/18/15, effective 3/25/15]

**661—226.5(101) Pressure testing.**

**226.5(1)** Pressure testing required. After assembly and after any modification or repair, metallic LP-gas piping and hose shall be pressure-tested as follows:

*a.* Piping systems having operating pressures greater than 20 psig shall be pressure-tested in accordance with the following:

(1) Prior to acceptance and initial operation, all piping installations shall be visually inspected and pressure-tested to determine that the materials, design, fabrication, and installation practices comply with the requirements of this chapter.

(2) Inspection shall consist of visual examination, during or after manufacture, fabrication, assembly, or pressure tests as appropriate.

(3) When repairs or additions are made following the pressure test, the affected piping shall be tested. Minor repairs and additions are not required to be pressure-tested, provided that the work is inspected and connections are tested with a noncorrosive, leak-detecting fluid or other leak-detecting methods approved by the authority having jurisdiction.

(4) When new branches are installed to a new appliance or appliances, only the newly installed branch or branches shall be required to be pressure-tested. Connections between the new piping and the existing piping shall be tested with a noncorrosive, leak-detecting fluid or approved leak-detecting methods.

(5) A piping system shall be tested as a complete unit or in sections. A valve in a line shall not be used as a bulkhead between gas in one section of the piping system and test medium in an adjacent section, unless a double block and bleed valve is installed. A valve shall not be subjected to the test pressure unless it can be determined that the valve, including the valve-closing mechanism, is designed to safely withstand the pressure applied during the test.

(6) Regulator and valve assemblies fabricated independently of the piping system in which they are to be installed shall be permitted to be tested with inert gas or air at the time of fabrication.

(7) Prior to testing the system, the interior of the pipe shall be cleared of all foreign material.

(8) The test medium shall be air, nitrogen, carbon dioxide, or an inert gas. Oxygen shall not be used.

(9) Test pressure shall be measured with a pressure-measuring device designed and calibrated to read, record, or indicate a pressure loss due to leakage during the pressure test period. The source of pressure shall be isolated before the pressure tests are made. Mechanical gauges used to measure test pressures shall have a range such that the highest end of the scale is not greater than five times the test pressure.

(10) The test pressure to be used shall be no less than 50 psi and shall not exceed 75 psi.

(11) Expansion joints shall be provided with temporary restraints, if required, for the additional thrust load under test.

(12) Appliances and equipment that are not to be included in the test shall be either disconnected from the piping or isolated by blanks, blind flanges, or caps. Flanged joints at which blinds are inserted to blank off other equipment during the test shall not be required to be tested.

(13) Where the piping system is connected to appliances or equipment designed for operating pressures of less than the test pressure, such appliances or equipment shall be isolated from the piping system by disconnecting them and capping the outlet(s).

(14) Where the piping system is connected to appliances or equipment designed for operating pressures equal to or greater than the test pressure, such appliances or equipment shall be isolated from the piping system by closing the individual appliance or equipment shutoff valve(s).

(15) All testing of piping systems shall be performed in a manner that protects the safety of employees and the public during the test.

(16) Test duration shall be not less than one-half hour for each 500 $ft^3$ (14 $m^3$) of pipe volume or fraction thereof. The duration of the test shall not be required to exceed 24 hours.

EXCEPTION: When a system having a volume of less than 10 $ft^3$ (0.28 $m^3$) is tested, the test duration shall be a minimum of 10 minutes.

*b.* Piping systems having operating pressures of 20 psig or less, all polyethylene and polyamide piping, and piping to which NFPA 54 National Fuel Gas Code, 2015 edition, is applicable shall be tested in accordance with that code.

**226.5(2)** Testing for leakage. Immediately after the gas is turned on into a new system or into a system that has been initially restored after an interruption of service, the piping system shall be checked for leakage in accordance with this chapter and Section 8.2 of NFPA 54, National Fuel Gas Code, 2015 edition. Where leakage is indicated, the gas supply shall be shut off until the necessary repairs have been made.

*a.* All LP-gas piping systems that have operating pressures of 20 psig or less and all polyethylene and polyamide piping shall have system and equipment leakage tests performed in accordance with this chapter and Section 8.2 of NFPA 54, National Fuel Gas Code, 2015 edition.

*b.* Piping systems that serve industrial occupancies with LP-gas vapor pressures between 20 psig and 50 psig shall be tested in accordance with the requirements of the authority having jurisdiction.

*c.* All LP-gas liquid piping systems and vapor piping systems operating at pressures greater than 20 psig shall be tested for leakage in accordance with this chapter as follows:

(1) Propane liquid shall not be used.

(2) Propane vapor may be utilized.

(3) Methods utilized to perform leak tests may be measurement of flow, measurement of sustained pressure for a period of time sufficient to disclose any leaks, or other procedures adequate to verify the system is gas-tight.

**226.5(3)** Tests shall not be made with flame.

**226.5(4)** Out-of-gas customers or interruption of service system start-up procedure. When a delivery of propane is made to any on-site container which is out of gas, or if propane service was interrupted, the delivery person shall comply with the following procedures.

*a.* When the "out-of-gas customer" is not present:

(1) The container service valve shall be shut off; and

(2) A tag shall be placed on the container service valve for the equipment the container services, indicating the container is out of service. The tag shall inform the gas customer to contact a qualified person to perform a leak check or other test on the system, as required by rules of the fire marshal, before turning on the container. Further action is the responsibility of the customer.

*b.* When the "out-of-gas customer" is present:

(1) The container service valve shall be shut off; and

(2) The gas customer shall be informed that the container is out of service and a qualified person must perform a leak check or other test on the system as required by this chapter or Section 8.2 of NFPA 54 National Fuel Gas Code, 2015 edition, before turning on the container service valve. Further action is the responsibility of the customer.

[**ARC 9235B**, IAB 11/17/10, effective 1/1/11; **ARC 1868C**, IAB 2/18/15, effective 3/25/15]

**661—226.6(101) Damages—reporting.**

**226.6(1)** *Responsibility to report.*

*a.* Any person who causes damage to any LP-gas piping system, including hoses, other than a person qualified in accordance with rule 661—226.4(101) and who has been authorized by the owner or occupant to repair the LP-gas installation, shall immediately turn off the supply of propane to the affected system and shall immediately notify the local fire department. After the call to the fire department, the person shall immediately notify the occupant of the property of the damage and the shutoff. If the occupant of the property cannot be contacted immediately, the owner of the property shall immediately be notified.

*b.* If the occupant or owner of property on which an LP-gas system is located has received notification that the system has been damaged and the occupant or owner finds that the supply of propane to the system has not been shut off, then the occupant or owner shall immediately shut off the supply of propane to the system and shall immediately notify the local fire department.

*c.* If the occupant or owner of property on which an LP-gas system is located finds that an LP-gas piping system has been damaged and the damage has not been reported to the occupant or owner as required by paragraph *"a"* of this subrule, the occupant or owner shall immediately shut off the supply of propane to the system and shall immediately notify the local fire department.

**226.6(2)** *Notification to qualified person.* The occupant or owner of the property on which an LP-gas system is located shall notify a person qualified pursuant to rule 661—226.4(101) of any damage to an LP-gas piping system immediately after receiving notification or otherwise becoming aware of the damage and shall arrange for the qualified person to inspect, repair, and test the damaged system prior to restoration of service to the damaged or repaired system.

Arrangement by the occupant or owner of the property for required repairs and testing shall not relieve the person who damaged the system of any liability, including the costs of repair or testing.

**226.6(3)** *Restoration of service.* LP-gas service shall not be restored to an LP-gas piping system which has been damaged until the system has been repaired and tested in accordance with rule 661—226.5(101).

**661—226.7(101) Use of railroad tank cars in stationary service.** On or after January 1, 2012, the use of railroad tank cars in stationary propane service shall be prohibited.

EXCEPTION: Existing installations for which prior written approval of the state fire marshal is documented in writing shall be permitted to remain in service.
[**ARC 9235B**, IAB 11/17/10, effective 1/1/11]

**661—226.8(101) Installation and use of DOT specification MC330 or MC331 cargo tanks in stationary service.** The installation and use of DOT specification MC330 or MC331 cargo tanks in stationary service shall be in accordance with NFPA 58, 2014 edition, and this chapter.

**226.8(1)** Containers shall be repaired or altered to prevent moisture or water from collecting in any container well. Repairs or alterations to pressure vessels must meet the requirements of the National Board Inspection Code (NBIC) [5] and must be performed by a repair organization accredited by the NBIC and authorized to utilize the "R" code symbol stamp.

**226.8(2)** Following a repair or alteration and final inspection by a National Board-commissioned inspector, the repair organization will affix a "Repair" nameplate to the pressure vessel which is similar to the ASME nameplate.

**226.8(3)** Alternate methods for preventing moisture or water from collecting in any container well may be considered in accordance with the equivalency requirements set forth in NFPA 58, 2008 edition, Section 1.5, Equivalency.
[**ARC 9235B**, IAB 11/17/10, effective 1/1/11; **ARC 1868C**, IAB 2/18/15, effective 3/25/15]

**661—226.9(101) NFPA standards.** To the extent that NFPA standards are inconsistent with International Fire Code standards, the NFPA standards shall control.
[**ARC 1868C**, IAB 2/18/15, effective 3/25/15]

These rules are intended to implement Iowa Code chapter 101.

[Filed 5/3/07, Notice 3/28/07—published 5/23/07, effective 7/1/07]
[Filed 10/31/07, Notice 9/12/07—published 11/21/07, effective 1/1/08]
[Filed ARC 9235B (Notice ARC 9098B, IAB 9/22/10), IAB 11/17/10, effective 1/1/11]
[Filed ARC 1868C (Notice ARC 1722C, IAB 11/12/14), IAB 2/18/15, effective 3/25/15]

# CHAPTER 506
# MILITARY SERVICE AND VETERAN RECIPROCITY

**661—506.1(85GA,ch1116) Definitions.**

*"Board"* means the electrical examining board established in Iowa Code section 103.2.

*"Military service"* means honorably serving on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1; in the military services of other states, as provided in 10 U.S.C. Section 101(c); or in the organized reserves of the United States, as provided in 10 U.S.C. Section 10101.

*"Military service applicant"* means an individual requesting credit toward licensure for military education, training, or service obtained or completed in military service.

*"Veteran"* means an individual who meets the definition of "veteran" in Iowa Code section 35.1(2).

[**ARC 1867C**, IAB 2/18/15, effective 3/25/15]

**661—506.2(85GA,ch1116) Military education, training, and service credit.** A military service applicant may apply for credit for verified military education, training, or service toward any experience or educational requirement for licensure by submitting a military service application form to the board office.

**506.2(1)** The application may be submitted with an application for licensure or examination, or prior to applying for licensure or to take an examination. No fee is required for the submission of an application for military service credit.

**506.2(2)** The applicant shall identify the experience or educational licensure requirement to which the credit would be applied if granted. Credit shall not be applied to an examination requirement.

**506.2(3)** The applicant shall provide documents, military transcripts, a certified affidavit, or forms that verify completion of the relevant military education, training, or service, which may include, when applicable, the applicant's Certificate of Release or Discharge from Active Duty (DD Form 214) or Verification of Military Experience and Training (VMET) (DD Form 2586).

**506.2(4)** Upon receipt of a completed military service application, the board shall promptly determine whether the verified military education, training, or service will satisfy all or any part of the identified experience or educational licensure requirement.

**506.2(5)** The board shall grant credit requested in the application in whole or in part if the board determines that the verified military education, training, or service satisfies all or part of the experience or educational qualifications for licensure.

**506.2(6)** The board shall inform the military service applicant in writing of the credit, if any, given toward an experience or educational qualification for licensure, or explain why no credit was granted. The applicant may request reconsideration.

**506.2(7)** A military service applicant who is aggrieved by the board's decision may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision. There shall be no fees or costs assessed against the military service applicant in connection with a contested case conducted pursuant to this subrule.

**506.2(8)** The board shall grant or deny the military service application prior to ruling on the application for licensure. The applicant shall not be required to submit any fees in connection with the licensure application unless the board grants the military service application. If the board does not grant the military service application, the applicant may withdraw the licensure application or request that the application be placed in pending status for up to one year or as mutually agreed. The withdrawal of a licensure application shall not preclude subsequent applications supported by additional documentation or information.

[**ARC 1867C**, IAB 2/18/15, effective 3/25/15]

**661—506.3(85GA,ch1116) Veteran reciprocity.**

**506.3(1)** A veteran with an electrical license in another jurisdiction may apply for licensure in Iowa through reciprocity, based on the reciprocity procedures for licensed electricians as set out in

the administrative rules in effect at the time that the application is made, and in compliance with any agreements with other jurisdictions regarding reciprocity. A veteran must pass any examinations required for licensure to be eligible for licensure through reciprocity. A fully completed application for licensure submitted by a veteran under this subrule shall be given priority and shall be expedited.

**506.3(2)** An application shall contain all of the information required of all applicants for licensure who hold unrestricted licenses in other jurisdictions and who are applying for licensure by reciprocity, including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary histories and, if applicable, a criminal history background check. In addition, the applicant shall provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2).

**506.3(3)** Upon receipt of a fully completed licensure application, the board shall promptly determine if the licensing requirements of the jurisdiction where the veteran is licensed are substantially equivalent to the licensing requirements in Iowa. The board shall make this determination based on information supplied by the applicant and such additional information as the board may acquire from the applicable jurisdiction. The board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, and postgraduate experiences.

**506.3(4)** The board shall promptly grant a license to the veteran if the veteran is licensed in the same or similar profession in another jurisdiction whose licensure requirements are substantially equivalent to those required in Iowa, unless the applicant is ineligible for licensure based on other grounds, for example, the applicant's disciplinary or criminal background.

**506.3(5)** If the board determines that the licensure requirements in the jurisdiction in which the veteran is licensed are not substantially equivalent to those required in Iowa, the board shall promptly inform the veteran of the additional experience, education, or examinations required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, the following shall apply:

*a.* If a veteran has not passed the required examination(s) for licensure, the veteran may not be issued a provisional license but may request that the application be placed in pending status for up to one year or as mutually agreed to provide the veteran with the opportunity to satisfy the examination requirements.

*b.* If additional experience or education is required for the applicant's qualifications to be considered substantially equivalent, the applicant may request that the board issue a provisional license for a specified period of time during which the applicant will successfully complete the necessary experience or education. The board shall issue a provisional license for a specified period of time upon such conditions as the board deems reasonably necessary to protect the health, welfare or safety of the public unless the board determines that the deficiency is of a character that the public health, welfare or safety will be adversely affected if a provisional license is granted.

*c.* If a request for a provisional license is denied, the board shall issue an order fully explaining the decision and shall inform the applicant of the steps the applicant may take in order to receive a provisional license.

*d.* If a provisional license is issued, the application for full licensure shall be placed in pending status until the necessary experience or education has been successfully completed or the provisional license expires, whichever comes first. The board may extend a provisional license on a case-by-case basis for good cause.

**506.3(6)** A veteran who is aggrieved by the board's decision to deny an application for a reciprocal license or a provisional license or is aggrieved by the terms under which a provisional license will be granted may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision. There shall be no fees or costs assessed against the military service applicant in connection with a contested case conducted pursuant to this subrule.

[**ARC 1867C**, IAB 2/18/15, effective 3/25/15]

These rules are intended to implement 2014 Iowa Acts, chapter 1116, division VI.

[Filed ARC 1867C (Notice ARC 1725C, IAB 11/12/14), IAB 2/18/15, effective 3/25/15]

CHAPTERS 507 to 549
Reserved

# CHAPTER 49
# ESTIMATED INCOME TAX FOR INDIVIDUALS
[Prior to 12/17/86, Revenue Department [730]]

**701—49.1(422) Who must pay estimated income tax.**

**49.1(1)** *General rule.* For tax years beginning on or after January 1, 1990, estimated payments are required if the taxpayer's income tax liability attributable to incomes not subject to withholding is expected to be $200 or more. The amount of estimated tax paid must be used as a credit on the taxpayer's individual income tax return.

**49.1(2)** *Joint estimate payments by married taxpayers.* A husband and wife may make a joint estimate tax payment on one form as if they were one taxpayer. If a joint estimate payment is made, but the husband and wife elect to file separate returns or separately on the combined return form, the estimate tax paid for the tax year by the husband and wife shall be allocated between the spouses on their returns in the proportion that each spouse's net income not subject to withholding tax relates to the combined net income of both spouses not subject to withholding tax.

**49.1(3)** *Separate estimate tax payments by married taxpayers.* A husband and wife may each make separate estimate payments. If separate estimate payments are made by married taxpayers, each spouse is to claim only the estimate payments made by that spouse.

**49.1(4)** *Examples of types of taxpayers who may be required to make estimate payments.* Listed below are examples of various types of taxpayers who may be required to make estimated tax payments. The list is for illustrative purposes and is not deemed to be all-inclusive.

1. *Self-employed.* An individual having taxable income from a trade or business where the individual has control of the work, the services rendered, and the fees and charges for services rendered or merchandise sold.

2. *Retiree.* An individual receiving pensions, annuities, and social security benefits or other incomes not subject to withholding after the taxpayer has withdrawn from active employment.

3. *Farmers and fishers.* Individuals deriving at least two-thirds of yearly income from farming or fishing activities.

4. *Nonresident.* Any individual who resides out of state and receives taxable income from an Iowa source which is not subject to withholding.

5. *Beneficiaries of estates and trusts.* Any resident or nonresident individual who is the recipient of income from an estate or trust from an Iowa source.

6. *Taxpayers with income in addition to wages.* An individual drawing salary or wages subject to withholding tax, having additional taxable income from an Iowa source which is not subject to withholding, such as interest, dividends, capital gains, rents, royalties, business income, or farm income.

7. *Agricultural worker.* Any worker receiving a wage or salary for agricultural labor which is excluded by law for withholding tax purposes.

This rule is intended to implement Iowa Code section 422.16.

[**ARC 0337C**, IAB 9/19/12, effective 10/24/12]

**701—49.2(422) Time for filing and payment of tax.**

**49.2(1)** *Time for filing.*

*a.* *General rule.* The date for filing the first estimate tax payment is on or before the last day of the fourth month of the tax year. The estimate tax form is to be sent to: Estimate Processing, Iowa Department of Revenue, P.O. Box 10466, Des Moines, Iowa 50306.

*b.* *Special rule for farmers and fishers.* If the estimated gross income of a taxpayer from farming or fishing is at least two-thirds of the estimated gross income from all sources for the taxable year, one of the following three methods is available to the taxpayer for satisfying the requirement to make estimate tax payments.

(1) Make the first estimate payment on April 30 and make the other three payments by the dates specified under subrule 49.2(2).

(2) Make the entire estimate payment for the tax year by January 15 of the subsequent tax year and file the individual income tax return by April 30 of the subsequent tax year.

(3) File the individual income tax return and pay the tax in full on or before March 1 of the subsequent tax year.

*c. Amended estimate payments.*

(1) *General rule.* Whenever a taxpayer who is required to make estimate payments has reason to believe that the anticipated income tax liability on which the estimate payments are based has increased or decreased, any subsequent estimate payments should be amended or adjusted accordingly.

(2) *Example.* A married couple is making joint estimate tax payments on a calendar year basis, anticipating taxable income of $8,500, with an estimated tax liability of $300. The taxpayers paid the first quarter installment of $75 by the due date of April 30 of the current year and the second installment of $75 on June 30. On July 15, real estate owned jointly by the taxpayers is sold, creating additional taxable income for the year of $7,500. The new tax liability for the tax year is $900 less the estimate payments of $150 already paid for the first and second quarters. There is a balance of $750 to be paid in two equal installments of $375 each by September 30 of the current year and by January 31 of the succeeding year.

**49.2(2)** *Payment of estimated tax.*

*a. General rule.* Estimated tax due for the tax year may be paid in full on the date on which the first payment is due or in four equal installments. The taxpayer may elect to pay any installment prior to the date when the installment is due.

*b. Calendar-year installments.* The first estimate tax payment is due by April 30. The other installments shall be paid on or before June 30 and September 30 of the current year, and on or before January 31 of the succeeding year.

*c. Fiscal-year installments.* The installment dates for a taxpayer filing estimate tax payments on a fiscal-year basis are:

Installment No. 1. The last day of the fourth month of the fiscal year.

Installment No. 2. The last day of the sixth month of the fiscal year.

Installment No. 3. The last day of the ninth month of the fiscal year.

Installment No. 4. The last day of the first month of the next fiscal year.

This rule is intended to implement Iowa Code section 422.16.

**701—49.3(422) Estimated tax for nonresidents.**

**49.3(1)** *General rule.* Except as noted in 49.3(2), payers of Iowa income to nonresidents of Iowa are required to withhold Iowa income tax and to remit the tax to the department. See rule 701—46.4(422) for withholding on payments to nonresidents.

**49.3(2)** *Estimate payments in lieu of withholding.* Nonresidents who prefer to pay estimated tax in lieu of having state income tax withheld by a state withholding agent must obtain a certificate or release from withholding. The nonresident estimated tax form must be accompanied by full payment and must include a list of the name(s) and address(es) of any tenant or farm manager, or cooperative elevator, or other Iowa agent or payer from which the taxpayer anticipates receiving income. The total gross income anticipated for the year must also be shown on the nonresident estimated tax form.

After the department's receipt of and approval of the completed nonresident estimate tax form with the full payment of the tax shown due on the form, the certificate of release from withholding will be forwarded to the withholding agent or payer designated on the form. Since the nonresident estimate form is filed for the purpose of obtaining a release from withholding, the form must be filed prior to the time of the transactions which would subject the taxpayer to the state withholding tax requirements. The nonresident estimate tax form and payment should be mailed to Estimate Processing, Iowa Department of Revenue, P.O. Box 10466, Des Moines, Iowa 50306.

**49.3(3)** *Example.* Nonresident estimated tax payments may be illustrated with the following example:

A nonresident individual owns a farm in Iowa which is operated by a farm manager. For tax purposes the farm manager is considered to be the Iowa withholding agent when distributing proceeds from the farm to the nonresident. A crop is sold through the local farm cooperative elevator and a check is issued to the farm manager, who then sends the check to the nonresident. Before doing so, Iowa income taxes

must be withheld from the gross proceeds and remitted to the Iowa department of revenue for deposit and credit to the income tax liability of the nonresident, unless the farm manager has possession of a certificate of release from withholding issued by the department of revenue. In the event that the farm cooperative elevator sends the check for payment of the crops directly to the nonresident, the cooperative becomes the withholding agent.

**49.3(4)** *Election by withholding agents to make estimated payments on behalf of nonresident taxpayers with net incomes from agricultural commodities or products.* Effective for tax years beginning on or after January 1, 1989, withholding agents such as farm management companies can elect to make estimate tax payments on behalf of nonresidents for net incomes that the nonresidents will have for the tax year from sales of agricultural commodities or products. If the withholding agent elects to make the estimate tax payments for the nonresident taxpayers, the estimate tax payments should be submitted to the department of revenue on or before the last day of the first month after the end of the tax year of the nonresidents. The estimate payments should be sent with Form IA 1040ES (45-002) and mailed to: Estimate Processing, Iowa Department of Revenue, P.O. Box 10466, Des Moines, Iowa 50306. Net income from agricultural commodities or products means net incomes from those agricultural commodities or products described in paragraph *"a"* of 701—subrule 46.4(6). If the estimate tax payments made on behalf of the nonresident taxpayers by the withholding agents are not sufficient to pay the Iowa income taxes on the net incomes of the nonresidents from the agricultural commodities or products, the nonresidents may be subject to penalties for underpayment of estimated taxes.

This rule is intended to implement Iowa Code sections 422.16 and 422.17.

**701—49.4(422) Special estimated tax periods.**

**49.4(1)** *Short taxable year.* A taxpayer having a taxable year of less than 12 months must make estimated tax payments if anticipating an Iowa tax liability of $50 or more for that short tax year if that tax year began prior to January 1, 1990. In the case of short tax years beginning on or after January 1, 1990, taxpayers would be required to make estimated payments if their anticipated Iowa tax liabilities were $200 or more from incomes not subject to withholding.

**49.4(2)** *Part-year resident.*

*a.* *General rule.* Part-year residents moving into or out of the state must determine their Iowa estimated tax on the ratio of income from Iowa sources not subject to withholding tax to incomes from all sources.

*b.* *Example.* An individual moving into the state on April 15, having taxable income from an Iowa source which is not subject to withholding and an expected tax liability of $150, must make the first estimate payment of $50 by June 30 and pay the remaining balance of $100 in two equal installments of $50 each by September 30 and by January 31 of the succeeding year if the tax year for which the estimate payments were made began prior to January 1, 1990. A similar procedure for making estimate payments would be followed for tax years beginning on or after January 1, 1990, when no estimate payments would be required unless the anticipated state income tax liability for the balance of the tax year would be $200 or more.

This rule is intended to implement Iowa Code section 422.16.

**701—49.5(422) Reporting forms.**

**49.5(1)** *Resident forms.* Blank estimate tax forms are available from the department for resident taxpayers making state estimate payments.

**49.5(2)** *Nonresident forms.* A special nonresident estimate tax form with instructions is available from the department for any nonresident wishing to make estimate tax payments in lieu of having Iowa income tax withheld by an Iowa withholding agent. The estimated payment should be submitted with the certificate or the release from withholding described in subrule 49.3(2).

This rule is intended to implement Iowa Code section 422.16.

[**ARC 1883C**, IAB 2/18/15, effective 3/25/15]

**701—49.6(422) Penalty—underpayment of estimated tax.** The civil penalty provided by the Internal Revenue Code for underpayment of federal estimated tax also applies to persons required to make payments of estimated tax under provisions of the Iowa Code. The Iowa penalty for underpayment of estimated tax is computed on Form IA 2210 for individual taxpayers other than farmers and fishers and Form IA 2210F for individuals who have two-thirds of their gross annual incomes from farming or fishing activities.

**49.6(1)** *Exceptions which may avoid the underpayment penalty.* The following are the two exceptions under which taxpayers may avoid the penalty for underpayment of estimated tax:

*a.* Current year payments equal or exceed prior year's liability. Taxpayers may avoid the penalty for underpayment of estimated tax if the estimated tax payments and other tax payments for the current tax year, such as withholding tax, are equal to or exceed the tax liability for the prior tax year. The prior tax year must cover a 12-month period and there must have been a tax liability on the return for the prior year. For tax years beginning on or after January 1, 1987, the requirement that the return for the prior tax year must have had a tax liability is eliminated although the return must have covered a 12-month period.

*b.* Current year payments equal or exceed 80 percent, or 90 percent for tax years beginning on or after January 1, 1987, of the tax on the taxpayer's annualized income. Taxpayers may also avoid the penalty for underpayment of estimated tax, if their tax payments for the tax year are equal to or exceed 80 percent of the tax on the taxpayer's annualized income for periods from the first of the tax year to the end of the month preceding the month in which an installment of estimated tax is due. For tax years beginning on or after January 1, 1987, taxpayers may avoid the penalty for underpayment of estimated tax if their tax payments for the tax year are equal to or exceed 90 percent of the tax on the taxpayer's annualized income.

**49.6(2)** *Waiver of penalty for underpayment of estimated tax.* The following are two situations under which the penalty for underpayment of estimated tax may be waived for tax years beginning on or after January 1, 1986:

*a.* The underpayment was due to casualty, disaster, or other unusual circumstances and imposition of the penalty would be against equity and good conscience.

*b.* The underpayment was made by an individual who retired after having attained age 62, or who became disabled in the tax year for which the estimated payment was due or in the preceding tax year, and the underpayment was due to reasonable cause and not due to willful neglect.

**49.6(3)** *Special provision for penalty for underpayment of estimated tax for tax years beginning on or after January 1, 1987, but before January 1, 1988.* Rescinded IAB 11/24/04, effective 12/29/04.

This rule is intended to implement Iowa Code section 422.16.

**701—49.7(422) Estimated tax carryforwards and how the carryforward amounts are affected under different circumstances.** For tax years beginning on or after January 1, 1994, taxpayers that timely file their Iowa returns and have overpayments shown on their returns may elect to have the overpayments credited to their estimated tax payments for the following tax year.

For purposes of this rule, filing a return for a calendar-year period on or before the last day of the year in which the return is due will constitute timely filing of that return for purposes of being eligible to have an overpayment from that return applied to the estimated tax payments for the next tax year. The 1994 Iowa return is due on May 1, 1995, because the regular due date of April 30 falls on Sunday. Therefore, if a taxpayer files the 1994 return on or before December 31, 1995, showing an overpayment on the return, the taxpayer can elect to have the overpayment credited to the taxpayer's estimated tax for the 1995 calendar year.

However, if a taxpayer files the 1994 return anytime after the end of the 1995 calendar year with an overpayment shown on the return, the overpayment will be refunded to the taxpayer notwithstanding that the taxpayer has shown that the overpayment is to be credited to estimated tax for 1995.

EXAMPLE 1. Mark Jones filed his 1994 return on October 31, 1995, showing an overpayment of $400, and a credit to 1995 estimated tax for $400. Because the 1994 return was filed on or before December 31, 1995, Mr. Jones' election to credit the $400 overpayment to 1995 estimated tax was honored.

EXAMPLE 2. Fred Mack filed his 1994 and 1995 Iowa returns in March 1996. The 1994 return showed an overpayment of $300 and credit to 1995 estimated tax of $300. The 1995 return showed an overpayment of $200 which was determined from estimated payments of $800, including the $300 credit from the 1994 return. The overpayment from the 1994 return was to be refunded because the taxpayer had filed that return after the deadline for crediting overpayments to estimated payments for 1994 returns. Because the $300 credit to 1995 estimated tax was not allowed, there was tax due of $100 on the 1995 return. The tax due for 1995 was satisfied with part of the refund from the 1994 return.

The following subrules show how the amounts of tax carryforwards from overpayments shown on state returns are affected by certain circumstances:

**49.7(1)** *Estimated tax carryforward and how amount of carryover credit is affected by error on return.* If a state return is filed timely with an overpayment shown on the return and the overpayment is to be credited to the taxpayer's estimated payments for the following year, the amount credited to estimated payments will be affected by an error on the return. Thus, if the error on the return is corrected and results in a smaller overpayment than was shown when the return was filed, the credit to estimated tax from the return will be reduced accordingly.

EXAMPLE. Mike Green filed his 1994 return on March 20, 1995, showing an overpayment of $400 and a credit to 1995 estimated tax of $400. During processing of the return, it was determined that the federal income tax refund received was subtracted from net income instead of being added to net income. Correction of this error resulted in an overpayment of $200 instead of $400. Thus, the amount credited to the taxpayer's estimated payments for 1995 was $200 instead of the $400 shown on the return form. The department notified Mr. Green of the error and advised him that only $200 was being credited to the taxpayer's estimated tax for 1995 instead of the $400 shown on the return.

**49.7(2)** *Estimated tax credit carryover, carryforward amount affected by amended return.* A taxpayer files an original return timely with an overpayment and with the overpayment credited to the following year's estimated tax payments. If the taxpayer files an amended return correcting an error on the original return and with a different amount credited to estimated tax than on the original return, the credit amount from the amended return will be credited to estimated tax, if the amended return is filed on or before the end of the year in which the return is due. Thus, if an amended 1994 return is filed by December 31, 1995, the amount shown as a credit to estimated tax from that amended return will be the amount credited to the taxpayer's 1995 estimated tax, instead of the amount credited from the original 1994 return.

EXAMPLE. Velma Fox filed her original 1994 return on April 15, 1995, with an overpayment of $500 and all of that overpayment credited to her estimated tax for 1995. Later, in 1995, Ms. Fox determined that she had failed to claim a deduction on the return for depreciation on some business equipment she acquired in 1994. Therefore, she filed an amended 1994 Iowa return on October 31,1995, showing an overpayment of $700 and a credit to 1995 estimated tax of the same amount. Ms. Fox's amended return was filed on or before December 31, 1995, so the $700 credit to Ms. Fox's 1995 estimated tax from the amended return was allowed.

Note that if the amended return had not been filed until sometime in January 1996, the credit from Ms. Fox's original return would have been applied to Ms. Fox's estimated payments for 1995. Since the amended return would have been filed too late for purposes of crediting the overpayment to the taxpayer's estimated tax for the next year, the department would issue Ms. Fox a refund of $200 which is the portion of the overpayment from the amended return that had not been credited to estimated tax from the original return for 1994.

**49.7(3)** *Estimated tax carryforward and how amount of carryover credit is affected by state tax liability or other state liability of the taxpayer.* A taxpayer who files an Iowa return with an overpayment shown on the return and elects to have the overpayment credited to the taxpayer's estimated tax for the next tax year will not have the overpayment credited to estimated tax if the taxpayer has tax liabilities or other liabilities with the state that are subject to setoff. Other liabilities with the state that are subject to setoff are those liabilities described in Iowa Code section 8A.504. These liabilities are for debts owed the state for public assistance overpayments, defaults on guaranteed student or parental college

loans, district court debts, delinquent child support, and any other debts of the taxpayer with a board, commission, department, or other administrative office or unit of the state of Iowa.

EXAMPLE 1. Rose Peters filed her 1994 Iowa return in April 1995 showing an overpayment of $400 and a credit to 1995 estimated tax of $400. During processing of Rose's 1994 return it was determined that she had a liability of $150 from her 1993 Iowa return. Thus, $150 of the 1994 overpayment was offset against the tax liability from the 1993 return. The remaining portion of the 1994 overpayment of $250 was credited to Ms. Peters' estimated tax for 1995.

EXAMPLE 2. Mike Moore filed his 1994 Iowa return in May 1995 with an overpayment of $500, a credit to 1995 estimated tax of $300 and a refund of $200. Mr. Moore is a "self-employed individual" as that phrase is to be understood for the purposes of Iowa Code section 252B.5, subsection 8, as amended by 2003 Iowa Acts, House File 534, section 220. During processing it was determined that Mr. Moore had a liability for unpaid child support of $1,000. After Mr. Moore was notified by the child support recovery unit of the department of human services that the overpayment from the 1994 return was going to be applied to the child support liability, the entire overpayment of $500 was set off against Mr. Moore's liability for unpaid child support. Thus, since the $300 credit to estimated tax was set off against the delinquent child support, there was no credit to estimated tax for 1995. Responsibility for offsetting this type of obligation remains, as of July 1, 2003, with the department of revenue and has not been transferred to the department of administrative services.

**49.7(4)** *Accrual of interest on an assessment of additional tax.* If the taxpayer has not elected to have an overpayment credited to an installment other than the first installment, interest shall accrue on an assessment of additional tax as follows: If the overpayment was credited to the first installment, interest on an assessment of additional tax shall accrue from the due date of the return. If the overpayment was credited to an installment due after the overpayment arose, interest shall accrue from the date the return was filed. Interest on that portion of an assessment greater than the overpayment shall accrue from the due date of the return.

If the taxpayer has elected to have an overpayment of estimated tax credited to an installment other than the first installment, interest shall accrue on any assessment of additional tax up to the amount of the overpayment from the date the return was filed with the department. Interest on any assessment of additional tax greater than the amount of the overpayment shall accrue from the due date of the return, *Avon Products, Inc. v. United States,* 588 F.2d 342 (2nd Cir. 1978), Revenue Ruling 84-58.

This rule is intended to implement Iowa Code section 422.16.

[**ARC 1665C**, IAB 10/15/14, effective 11/19/14]

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[Filed ARC 1883C (Notice ARC 1726C, IAB 11/12/14), IAB 2/18/15, effective 3/25/15]

# CHAPTER 7
# RETIRED AND SENIOR VOLUNTEER PROGRAM (RSVP)

**817—7.1(15H) Purpose and program description.** The purpose of the retired and senior volunteer program (RSVP) is to identify and address priority community needs through the mobilization of adult volunteers aged 55 and over, thereby recognizing and using the competence, wisdom and experience of this age group for the benefit of all Iowans. RSVP grants will give support to each RSVP project serving Iowa and provide discretionary grants on a competitive basis for RSVP project expansion. The commission administers two types of RSVP grants:

**7.1(1)** *RSVP grant.* Each RSVP project which has a current notice of grant award to operate an RSVP project from the Corporation for National and Community Service (the federal domestic volunteer agency) is to be allocated a share of state funds appropriated for distribution. Each RSVP project shall submit to the commission a budget outlining the method by which the project will expend the grant allotted to the project and other information as requested by the commission.

**7.1(2)** *State-developed RSVP project grants.* From state funds appropriated by the legislature, RSVP projects will be developed that are consistent with the goals of the Corporation for National and Community Service, RSVP and the commission. After a review by the grant review committee pursuant to subrule 7.4(3), grants will be awarded on a competitive basis by the commission and the Corporation for National and Community Service to local organizations or groups to initiate new RSVP projects. Decisions to make state funding available for new state-developed programs or existing program expansions must be approved by the commission.

[**ARC 1882C**, IAB 2/18/15, effective 7/1/15]

**817—7.2(15H) Applications.** Appropriate forms and applications for each grant are available from the commission or the Corporation for National and Community Service.

**817—7.3(15H) Grant criteria.** To respond to funding priorities, as funds are made available, the executive director of the commission and the state director of the Corporation for National and Community Service will coordinate in establishing criteria for the awarding of state-developed funds. At a minimum, the criteria will contain the following:

1. Goals and objectives of the project;
2. The qualifications of the applicant to manage funds;
3. Letters of local support verifying coordination and cooperation and the need for volunteers;
4. Total project budget;
5. Evidence of ability to submit timely and accurate reports;
6. Description and time line of planned activities;
7. Agreement to develop for the project a community partnership group whose membership should include a cross section of the community served;
8. Description of the applicant organization, including staffing pattern; and
9. Documentation of the applicant's ability to provide the required local match.

**817—7.4(15H) Application process for new state-developed project grants.**

**7.4(1)** The commission or the Corporation for National and Community Service shall issue a request for proposals containing project criteria and application instructions based on the most recent application instructions or notice of funding opportunity for RSVP that is available from the Corporation for National and Community Service for the appropriate fiscal year.

**7.4(2)** The applicant shall submit the completed application to the commission according to the time line identified in the request for proposals.

**7.4(3)** Applications submitted will be reviewed by a grant review committee, which is composed of up to two representatives of each of the following: the Corporation for National and Community Service, the Iowa commission on volunteer service, and the citizens of Iowa. Using the criteria in rule 7.3(15H), the committee will review the applications for appropriateness and to determine the merit of the project.

**7.4(4)** Applicants whose projects have been selected for funding shall be notified by the commission.

**7.4(5)** The commission will contract with the approved applicant(s) for the appropriate fiscal year, July 1 to June 30.
[**ARC 1882C**, IAB 2/18/15, effective 7/1/15]

**817—7.5(15H) Administration of grants.** The commission shall prepare contractual agreements for the grants.

**7.5(1)** *Execution of contract.* The contract shall be executed by the executive director of the commission and the duly authorized official of the local RSVP project.

**7.5(2)** *Contract requirements.* The contract shall include due dates and the process for the submission of project reports and financial reports.

**7.5(3)** *Reporting.* All grant recipients shall submit biannual progress and financial reports to the Corporation for National and Community Service and provide these reports to the commission. Beginning in state fiscal year 2015, RSVP projects will report to the commission, with each payment request, the number of active volunteers serving in the prior period. RSVP projects will also report to the commission the number of persons provided with volunteer management resources, such as training, best practices, and materials, and the number of persons who report that the training increased their knowledge of effective volunteer management practices.

**7.5(4)** *Distribution of funds.* The base-level formula for distribution of funds for established programs will be based on the prior fiscal year's state funding levels. When applicable, any relinquished funds will be distributed based on the current fiscal year's distribution formula. New programs that are not state-developed will begin at the base funding level for RSVP grants established by the commission.

Beginning in state fiscal year 2016, distribution of state funds will include an established maximum average cost per volunteer as determined by the commission on an annual basis. The maximum cost per volunteer will be set one year in advance. If the commission does not establish a new rate, the prior rate remains in effect. The average cost per volunteer calculation is based on the number of volunteers divided by the sum of awarded state plus federal funds. Any program that exceeds the maximum cost at the time of the January biannual progress report may have subsequent grant awards reduced to comply with this threshold. Additional funds that are not awarded due to these reductions will be retained by the commission for up to two years to be used to support RSVP training designed to increase volunteer recruitment and retention. If, after two years, the project from which the funds have been retained has not met the maximum cost per volunteer threshold, the funds will be distributed to projects that are below the maximum volunteer cost threshold with the understanding that the funds are provided on a one-year basis. The commission may grant a temporary exception to the maximum cost requirement for new projects or in the case of financial or other hardship.

**7.5(5)** *Training.* Up to 1.5 percent of funds designated for RSVP grants may be retained by the commission for training and technical assistance for RSVP project directors and members.

**7.5(6)** *Administrative funds.* The commission or any other state agency may not retain RSVP grant funds for administration or any other purpose not designated pursuant to this chapter.
[**ARC 1882C**, IAB 2/18/15, effective 7/1/15]

**817—7.6(15H) Reversion of funds.** Grant funds not expended by the project by June 30 shall revert to the commission.

These rules are intended to implement Iowa Code section 15H.2(3)*"i."*

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[Filed ARC 1882C (Notice ARC 1386C, IAB 3/19/14; Amended Notice ARC 1492C, IAB 6/11/14), IAB 2/18/15, effective 7/1/15]

# CHAPTER 72
# CONVEYANCES INSTALLED ON OR AFTER JANUARY 1, 1975

[Prior to 9/24/86, Labor, Bureau of [530]]
[Prior to 10/21/98, see 347—Ch 72]

**875—72.1(89A) Purpose and scope.** This chapter contains safety standards covering the design, construction, installation, operation, inspection, testing, maintenance, alteration and repair of conveyances installed on or after January 1, 1975. The rules of this chapter also apply to previously dormant conveyances that are being reactivated, and to reinstalled or moved conveyances. As used in this rule, the word "installation" refers to the date on which a conveyance contractor enters into a contractual agreement pertaining to a conveyance.

**72.1(1)** For installations between January 1, 1975, and December 31, 1982, ANSI A17.1 shall mean ANSI A17.1 (1971).

**72.1(2)** For installations between January 1, 1983, and December 31, 1992:

*a.* ANSI A17.1 shall mean ANSI A17.1 (1981); and

*b.* ANSI A117.1 shall mean ANSI A117.1 (1980).

**72.1(3)** For installations between January 1, 1993, and December 31, 2000:

*a.* ASME A17.1 shall mean ASME A17.1 (1990) and in addition shall mean the following:

(1) ASME A17.1b (1992), Rule 110.11h, for electric elevators installed between July 1, 1993, and December 31, 2000, and

(2) ASME A17.1b (1992), Rule 110.11h that is referenced by Rule 300.11, for hydraulic elevators installed between July 1, 1993, and December 31, 2000.

*b.* ANSI/NFPA 70 shall mean ANSI/NFPA 70 (1990); and

*c.* ANSI A117.1 shall mean ANSI A117.1 (1980).

**72.1(4)** For installations between January 1, 2001, and December 31, 2003:

*a.* ASME A17.1 shall mean ASME A17.1 (1996 through the 1999 addenda);

*b.* ASME A18.1 shall mean ASME A18.1 (1999), except Chapters 4, 5, 6, and 7;

*c.* ANSI A117.1 shall mean ANSI A117.1 (1998); and

*d.* ANSI/NFPA 70 shall mean ANSI/NFPA 70 (1999).

**72.1(5)** For installations between January 1, 2004, and April 4, 2006:

*a.* ASME A17.1 shall mean ASME A17.1 (2000 through the 2003 addenda);

*b.* ASME A18.1 shall mean ASME A18.1 (1999 through the 2001 addenda), except Chapters 4, 5, 6, and 7;

*c.* ANSI A117.1 shall mean ANSI A117.1 (1998); and

*d.* ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2002).

**72.1(6)** For installations between April 5, 2006, and July 22, 2008:

*a.* ASME A17.1 shall mean ASME A17.1-2004, A17.1a-2005 and A17.1S-2005;

*b.* ASME A18.1 shall mean ASME A18.1 (2003), except Chapters 4, 5, 6, and 7;

*c.* ANSI A117.1 shall mean ANSI A117.1 (2003), except for Rule 407.4.6.2.2; and

*d.* ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2005).

**72.1(7)** For installations between July 23, 2008, and July 18, 2012:

*a.* ASME A17.1 shall mean ASME A17.1-2007/CSA B44-07;

*b.* ASME A17.7 shall mean ASME A17.7-2007/CSA B44-07;

*c.* ASME A18.1 shall mean ASME A18.1 (2003), except Chapters 4, 5, 6, and 7;

*d.* ANSI A117.1 shall mean ANSI A117.1 (2003), except for Rule 407.4.6.2.2; and

*e.* ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2005).

**72.1(8)** For installations on or after July 19, 2012:

*a.* ASME A17.1 shall mean ASME A17.1-2010/CSA B44-10, except for Rule 2.27.1.1.6;

*b.* ASME A17.7 shall mean ASME A17.7-2007/CSA B44-07;

*c.* ASME A18.1 shall mean ASME A18.1 (2003), except Chapters 4, 5, 6, and 7;

*d.* ANSI A117.1 shall mean ANSI A117.1 (2003), except for Rule 407.4.6.2.2; and

*e.* ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2008).

**72.1(9)** For installations between January 31, 2014, and January 14, 2015:

*a.* ASME A17.1 shall mean ASME A17.1-2010/CSA B44-10, except for Rule 2.27.1.1.6;

*b.* ASME A17.7 shall mean ASME A17.7-2007/CSA B44-07;

*c.* ASME A18.1 shall mean ASME A18.1 (2011), except Chapters 4, 5, 6, and 7;

*d.* ANSI A117.1 shall mean ANSI A117.1 (2003), except for Rule 407.4.6.2.2; and

*e.* ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2008).

**72.1(10)** For installations on or after January 14, 2015:

*a.* ASME A17.1 shall mean ASME A17.1-2013/CSA B44-13;

*b.* ASME A17.7 shall mean ASME A17.7-2007/CSA B44-07;

*c.* ASME A18.1 shall mean ASME A18.1 (2011), except Chapters 4, 5, 6, and 7;

*d.* ANSI A117.1 shall mean ANSI A117.1 (2003), except for Rule 407.4.6.2.2; and

*e.* ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2011).

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09; **ARC 8759B**, IAB 5/19/10, effective 6/23/10; **ARC 0168C**, IAB 6/13/12, effective 7/18/12; **ARC 1232C**, IAB 12/11/13, effective 1/31/14; **ARC 1766C**, IAB 12/10/14, effective 1/14/15]

**875—72.2(89A) Definitions.** The definitions contained in ASME A17.1, ASME A18.1, ANSI A117.1, and any other standard adopted herein by reference shall be applicable as used in this chapter to the extent that the definitions do not conflict with the definitions contained in Iowa Code chapter 89A and these rules. However, the definition of "building code" in ASME A17.1 is modified to exclude the Building Construction and Safety Code (NFPA 5000) and the National Building Code of Canada (NBCC) for any installation after March 1, 2008.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09]

**875—72.3(89A) Accommodating the physically disabled.** All passenger elevators installed between January 1, 1975, and December 31, 1982, which are available and intended for public use shall be usable by the physically disabled. All passenger elevators shall have control buttons with identifying features for the benefit of the blind and shall allow for wheelchair traffic. All passenger elevators and wheelchair lifts installed on or after January 1, 1983, which are accessible to the general public shall comply with Accessible and Usable Buildings and Facilities ANSI A117.1, sections 407 and 408.

**875—72.4(89A) Electric elevators.** The provisions contained in ASME A17.1, part 2, are adopted by reference.

**875—72.5(89A) Hydraulic elevators.** The provisions contained in ASME A17.1, part 3, are adopted by reference.

**875—72.6(89A) Power sidewalk elevators.** The provisions contained in ASME A17.1, section 5.5, are adopted by reference.

**875—72.7(89A) Performance-based safety code.** Conveyances may comply with ASME A17.7, in whole or in part, as an alternative to ASME A17.1.

**875—72.8(89A) Hand and power dumbwaiters.** The provisions contained in ASME A17.1, sections 7.1, 7.2, 7.3, and 7.8, are adopted by reference.

**875—72.9(89A) Escalators and moving walks.** The provisions contained in ASME A17.1, part 6, are adopted by reference, except for those portions that allow an operating or safety device to reset automatically.

[**ARC 1766C**, IAB 12/10/14, effective 1/14/15]

**875—72.10(89A) General requirements.** The provisions contained in ASME A17.1, part 8, are adopted by reference unless specifically excluded herein.

**875—72.11(89A) Acceptance and periodic tests and inspections of elevators, dumbwaiters, escalators and moving walks.** Rescinded IAB 6/17/09, effective 7/22/09.

**875—72.12(89A) Wind tower lifts.** Wind tower lifts authorized by this rule shall not be installed in grain elevators, high-rise buildings, water towers, television towers or any facility other than a wind tower built for the production of electricity. This rule applies to all wind tower lifts, whether installed before or after May 28, 2008; however, this exception shall not apply to a wind tower lift if the contract for its installation is executed after an AECO is accredited.

**72.12(1)** Wind tower lifts that meet the requirements of subrules 72.12(2) through 72.12(10) are exempt from the requirements of ASME A17.1. This temporary exemption shall terminate for a wind tower lift upon the occurrence of at least one of the following events:

*a.* Three weeks have passed since the accreditation of at least one AECO, and the manufacturer of the wind tower lift has not filed with the labor commissioner an affidavit attesting that a request for Certificate of Conformance as described by ASME A17.7 (2007) was submitted to an AECO.

*b.* The AECO has reviewed a request pursuant to ASME A17.7 and refused to issue a Certificate of Conformance for the model or series of lifts.

*c.* The AECO has determined that modifications to the wind tower lift are necessary, and the modifications have not been made with reasonable diligence.

*d.* The AECO has determined that modifications to the wind tower lift are necessary, and the labor commissioner determines the wind tower lift is not safe to operate prior to completion of the modifications.

*e.* The AECO has reviewed an application pursuant to ASME A17.7 and issued a Certificate of Conformance for the model or series of lifts.

**72.12(2)** A wind tower lift placed in operation on or before May 28, 2008, shall be registered by the owner with the labor commissioner no later than July 1, 2008, and shall pass an installation inspection by inspectors employed by the labor commissioner according to the schedule set by the labor commissioner. The wind tower lift shall receive a periodic inspection by the labor commissioner's inspectors annually thereafter.

**72.12(3)** The owner of a wind tower lift installed after May 28, 2008, shall register the wind tower lift with the labor commissioner prior to its installation. A wind tower lift installed after May 28, 2008, shall pass an installation inspection by the labor commissioner's inspectors prior to its being placed into operation. The wind tower lift shall receive a periodic inspection by the labor commissioner's inspectors annually thereafter.

**72.12(4)** Registration pursuant to this rule requires submission of the following information to the labor commissioner:

*a.* The unique identifier of the wind tower.

*b.* The name of the wind tower owner and contact information for the owner's representative.

*c.* The name of the wind tower lift manufacturer and contact information for the manufacturer's representative.

*d.* The location of the wind farm.

*e.* Three copies of the prints and design documents that are certified by a professional engineer duly licensed in the state of Iowa and that bear the professional engineer's P.E. stamp for the lifts.

*f.* The manufacturer's complete test procedures, inspection checklists, operating manual, service manual, and related documents as determined necessary by the labor commissioner.

**72.12(5)** The owner shall notify the labor commissioner within 30 days of any change in the information provided pursuant to 72.12(4)*"b"* and *"c."*

**72.12(6)** This subrule establishes reporting requirements in addition to the requirements of rule 875—71.3(89A). The manufacturer of a lift must notify the labor commissioner in writing within one week if one of its wind tower lifts anywhere in the world is involved in a personal injury accident requiring the service of a physician, a personal injury accident causing disability exceeding one day or death, or an incident causing property damage exceeding $2,000. The notification shall specifically identify the model number, serial number, and owner of the lift, and a description of the incident or

accident. The labor commissioner shall determine and require necessary inspections, tests, changes or enhancements to prevent a similar incident or accident in this state.

**72.12(7)** Wind tower lifts must comply with 29 CFR 1910.

**72.12(8)** The manufacturer shall notify the labor commissioner within seven days of notification to the manufacturer that an AECO has:

*a.* Issued a Certificate of Conformance for the model or series of wind tower lifts,

*b.* Refused to issue a Certificate of Conformance for the model or series of wind tower lifts, or

*c.* Determined that modifications to the wind tower lifts are necessary.

**72.12(9)** Wind tower lifts shall pass an inspection covering the following criteria:

*a.* Ascending speed, descending speed, and emergency descending speed shall not exceed the manufacturer's recommendations.

*b.* Stop switch, interior lighting, cage entry door, door contact, operating controls and remote operating controls shall operate according to manufacturer's recommendations.

*c.* Interior floor and cage framework shall appear to be structurally sound.

*d.* Enclosure signage recommended by the manufacturer shall be in place.

*e.* Manufacturer's data plate shall be visible.

*f.* Hoisting mechanism shall appear to be structurally sound and intact from inside and outside the car.

*g.* Guide shoes shall appear to be structurally sound and undamaged.

*h.* Suspended power cords and strain relief devices shall reveal no visible damage.

*i.* Upper and lower normal and final limits shall operate according to the manufacturer's recommendations.

*j.* Overspeed device shall successfully pass a full-load test.

*k.* Overload device shall successfully pass an overload test according to the manufacturer's recommendations.

*l.* Wire rope, safety rope, and guide rope shall show no evidence of wear.

*m.* Guide rope attachments, suspension attachment beam, beam tower attachments, suspension rope attachment, suspension rope secondary attachment (if present), and guide wire rope attachments shall show no evidence of wear or fatigue.

*n.* The wind tower lift shall not drift when subjected to a static full load.

*o.* Maintenance logs, tags, and other necessary documentation shall be available in sufficient detail to establish that maintenance is occurring pursuant to the manufacturer's schedule.

*p.* Guide rope tension device, safety rope tension device, and suspension rope tension device shall pass a visual test for proper tension.

*q.* Power cord catch basket shall pass a visual inspection.

*r.* Safety set distance, overspeed trip speed, overload limit setting, and maximum overload allowed shall not exceed manufacturer's recommendations.

*s.* A communication device, if installed in the car, shall be operable.

*t.* Any other items on the manufacturer's recommended inspection checklist shall pass inspection.

**72.12(10)** The owner or owner's representative shall provide weights as needed to perform necessary tests during inspections.

**875—72.13(89A) Alterations, repairs, replacements and maintenance.**

**72.13(1)** *General.* Except as set forth in this rule, all maintenance, repairs, replacements, and alterations shall comply with the edition of ASME A17.1 currently adopted for new conveyances at rule 875—72.1(89A) or ASME A17.7-2007/CSA B44-07, as applicable. Rule 875—71.10(89A) describes alterations which require that the entire conveyance be brought into compliance with the most current codes.

**72.13(2)** *Exemption for button renumbering.* All maintenance, repairs and alterations to devices covered by ANSI A117.1 shall comply with ANSI A117.1 (2003), except for Rule 407.4.6.2.2.

**72.13(3)** *Sump pump exemption.* The provisions of ASME A17.1 that require a pit sump or drain shall not apply to an elevator alteration when all of the following criteria are met:

*a.* No other code or rule requires that the pit be excavated or lowered.

*b.* The alteration plans do not include the excavation or lowering of the pit floor for any other reason.

*c.* There is evidence that groundwater has not entered the pit previously.

*d.* The location and geology of the building indicate a likelihood that groundwater would enter the pit if the foundation or pit floor were breached to install the pit sump or drain.

*e.* A description of alternative means to maintain the pit in a dry condition is provided to the labor commissioner with the alteration permit application.

*f.* The labor commissioner approves the alternative means to maintain the pit in a dry condition.

*g.* The alternative means to maintain the pit in a dry condition are installed or implemented as described in the alteration permit application.

**72.13(4)** *Pit excavation exemption.* The full length of the platform guard set forth in ASME A17.1, Rule 2.15.9.2(a), shall not be required if all of the following criteria are met:

*a.* No other code or rule requires that the pit be excavated or lowered.

*b.* The alteration plans do not include the excavation or lowering of the pit floor for any other reason.

*c.* A full-length platform guard would strike the pit floor when the elevator is on its fully compressed buffer.

*d.* The clearance between the bottom of the platform guard and the pit floor is 2.5 centimeters (1 inch) when the elevator is on its fully compressed buffer.

**72.13(5)** *Sprinkler retrofits and shunt trip breakers.* When a sprinkler is added to a hoistway or machine room, the conveyance shall comply with the following:

*a.* The installation shall comply with the applicable version of ASME A17.1, Rule 2.8.3.3.

*b.* The elevator controls shall be arranged to comply with the phase I fire recall provisions of the applicable version of ASME A17.1, Rule 2.27.3.

*c.* The applicable version of ASME A17.1 shall be determined by reference to rule 875—72.1(89A). For purposes of rule 875—72.13(89A), the relevant subrule of 875—72.1(89A) shall apply based on the date the sprinkler is installed instead of the date the conveyance was installed.

[**ARC 7840B**, IAB 6/17/09, effective 7/22/09; **ARC 1766C**, IAB 12/10/14, effective 1/14/15]

**875—72.14(89A) Design data and formulas.** Rescinded IAB 11/26/03, effective 1/1/04.

**875—72.15(89A) Power-operated special purpose elevators.** The provisions contained in ASME A17.1, section 5.7, are adopted by reference.

**875—72.16(89A) Inclined and vertical wheelchair lifts.** The provisions contained in ASME Safety Standard for Platform Lifts and Stairway Chairlifts A18.1, sections 1, 2, 3, 8, 9, and 10, are adopted by reference for all inclined and vertical wheelchair lifts.

**875—72.17(89A) Hand-powered elevators.** Hand-powered elevators shall not be installed after January 1, 1983.

**875—72.18(89A) Accommodating the physically disabled.** Renumbered as 875—72.3(89A), IAB 11/26/03, effective 1/1/04.

**875—72.19(89A) Limited-use/limited-application elevators.** The provisions contained in ASME A17.1, section 5.2, are adopted by reference.

**875—72.20(89A) Rack and pinion, screw-column elevators.** The provisions contained in ASME A17.1, sections 4.1 and 4.2, are adopted by reference.

**875—72.21(89A) Inclined elevators.** The provisions contained in ASME A17.1, section 5.1, are adopted by reference.

**875—72.22(89A) Material lift elevators.** The provisions contained in ASME A17.1, Sections 7.4 and 7.5, are adopted by reference for Type B material lift elevators installed on or after July 23, 2008. Material lift elevators used exclusively for the movement of materials are not subject to regulation under Iowa Code chapter 89A.
[Editorial change: IAC Supplement 2/18/15; see Note 1 at end of chapter]

**875—72.23(89A) Elevators used for construction.** The provisions contained in ASME A17.1, section 5.10, are adopted by reference only as they pertain to elevators utilizing permanent equipment in a permanent location.

**875—72.24(89A) Construction personnel hoists.** The provisions of American National Standards Institute (ANSI) A10.4-2007 are adopted by reference for construction personnel hoists as defined by ANSI A10.4-2007. Notwithstanding the ANSI definition, these conveyances may be used only temporarily during construction.

**875—72.25(89A) Alarm bell.** An automatic passenger elevator shall be provided with an alarm bell that is activated by a switch marked "ALARM" located in or adjacent to the car operating panel. The alarm bell shall be audible inside the car and outside the hoistway.
[**ARC 0950C**, IAB 8/21/13, effective 9/25/13]

These rules are intended to implement Iowa Code chapter 89A.

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[1] Adopted language of rule 875—72.22(89A) [ARC 6854B, 6/18/08] editorially restored IAC Supplement 2/18/15.