

Schools may request an exemption from the director to start earlier if “significant negative educational impact” can be shown. In these proposed rules, that term is defined and two windows of opportunity for exemption are created to the current floating start date laid out in Code. A less significant variance from the statutory start date requires a less significant showing of negative educational impact.

The first window is a period where requests will have an expedited review and approval process. If the district requests a start date that is within 7 days prior to the date prescribed in Code (or within 11 days if the date prescribed in Code falls on a Monday or Tuesday), the district shall declare the existence of a significant negative educational impact by resolution after a public hearing, and there will be an expedited review and approval of request by the director.

In the second window of opportunity, if the district requests a start date that is more than 7 days prior to the start date prescribed in Code (or more than 11 days if the start date falls on a Monday or Tuesday), the district has a much higher bar to demonstrate a “significant negative educational impact” and must meet a majority of specific criteria set out in the rules.

Past practice has allowed schools to get permission to set their starting date whenever they wished. These proposed rules lay out more specific requirements related to the requests and provide guidance to both districts requesting permission to start early and to the department in considering these requests.

EDUCATION DEPARTMENT [281]

Notice of Intended Action

Pursuant to the authority provided by changes made in enacted HF 215, sections 79-83, modifying Iowa Code sections 256.7(19), 256F.4(5), 279.10(1), 279.10(2), and 299.1(2), the State Board of Education hereby proposes to amend Chapter 12 General Accreditation Standards — Division I – General Standards, Iowa Administrative Code.

In 2013, the enacted education reform bill included provisions to allow local school districts and accredited nonpublic schools to continue with the traditional 180 day school calendar or change to a schedule based on 1,080 hours. These changes would occur starting in the 2014-15 school year. Certain provisions concerning the traditional school day were struck in that legislation, requiring modifications to the relevant administrative rules. Given new flexibility for school districts within the 1,080 hours option, it is timely to strike a more reasonable balance with school start dates that does not have a negative impact on education while accommodating the interests of Iowa's tourism industry in compliance with Iowa Code, which specifies that school will not start until early September. As a result, the Department of Education is proposing changes to the statutory school early start date request process by defining the term "significant negative educational impact" for an application to start the school year earlier than the start date specified in the Iowa Code. The proposed rule is based on the principle that a less significant variance from the statutory start date requires a less significant showing of a significant negative educational impact.

An agency wide waiver provision is provided in 281— Chapter 4. A public hearing will be held at 3:00 p.m. on Tuesday, September 10, 2013, in the State Board Room on the second floor of the Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines,

Iowa, at which time interested persons may present their views either orally or in writing. All persons who wish to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should advise the Department of Education of specific needs ahead of the hearing date by calling (515) 281-5295.

Interested persons may make written comments on the proposed rules on or before 4:30 p.m. on September 10, 2013. Comments should be directed to Mike Cormack, Rules Coordinator, Iowa Department of Education, Grimes State Office Building, Second Floor, 400 East 14th Street, Des Moines, Iowa 50319-0146. Comments may also be sent by fax to (515) 242-5988 or submitted by e-mail to mike.cormack@iowa.gov.

Analysis and review of the proposed rules confirms that they have no job impact.

The proposed rules shall become effective on November 20, 2013.

These rules are intended to implement enacted House File 215, sections 79-83 which modifies subrules 281.1—12.1(7) through 281.1—12.1(11) and to implement the waiver provision of Iowa Code section 279.10(4).

The following rules are proposed.

ITEM 1. Amend rule ~~281---~~**12.1** (7) as follows:

~~281---~~12.1(7) Minimum school calendar: set by annual hours or and days of instruction.

The ~~Each~~ board of directors of a school district and the authorities in charge of an accredited nonpublic school shall adopt a school calendar that sets the number of ~~identifies specific days or~~ hours of required attendance for student instruction, staff development and in-service time, and time for parent-teacher conferences. Prior to adopting the school calendar the board of directors of a school district shall hold a public hearing on any proposed school calendar. The board and authorities in charge of an accredited nonpublic school shall notify the department annually of

their decision to have a calendar based on days or based on hours. The length of the school calendar does not dictate the length of contract hours or days of employment for instructional and noninstructional staff. Time recorded under either a days or hours calendar system may include passing time between classes but shall exclude the lunch period. Time spent on parent teacher conferences shall be considered instructional time. The school calendar may be operated any time during the school year of July 1 to June 30 as defined by Iowa Code section 279.10. A minimum of 180 days or 1,080 hours of instruction shall be set in the school calendar, for school districts and accredited nonpublic schools beginning no sooner than a day during the calendar week in which the first day of September falls, shall be used for student instruction. However, if the first day of September falls on a Sunday, school may begin any day during the calendar week preceding September 1. These 180 days shall meet the requirements of “day of school” for those districts or accredited nonpublic schools that are utilizing a schedule based on days, defined in subrule 12.1(8)(a), “minimum school day” in subrule 12.1(9), and “day or hour of attendance” in subrule 12.1(10). (Exception: A school or school district may, by board policy, excuse graduating seniors up to five days or 30 hours of instruction after school or school district requirements for graduation have been met.) If additional days are added to the regular school calendar because of inclement weather, a graduating senior who has met the school or school district’s requirements for graduation may be excused from attendance during the extended school calendar. ~~A school or school district may begin its school calendar for other educational purposes involving instructional and non-instructional staff~~ employment of instructional and noninstructional staff for in-service training and development purposes, earlier than the first day of school. A school or school district choosing a schedule based on hours shall follow the hour of school definition of 12.1(8)(b).

ITEM 2. Amend rule **281---12.1(8)** as follows:

281---12.1(8)(a) Day of school. A day of school is a day during which the school or school district is in session and students are under the guidance and instruction of the instructional professional staff. School shall be considered in session during parent-teacher conferences as well as during activities such as field trips if students are engaged in programs or activities under the guidance and direction of the instructional professional staff. All grade levels of the school or school district must be operated and be available for attendance by all students. An exception is if either the elementary or secondary grades are closed and provided that the time missed is made up at some other point during the school calendar so as to meet the minimum of 180 days or 1,080 hours of instruction for all grades 1 through 12. ~~If a classroom or attendance center is closed for emergency health or safety reasons but the remainder of the school or school district is in operation, the day may be counted as a day of school.~~

281--- 12.1(8)(b) Hour of school. For schools or school districts adopting a calendar based on a 1,080 hour minimum schedule, an official hour of school is an hour in which the school or school district is in session and students are under the guidance and instruction of the instructional professional staff. For purposes of this rule, an “hour” is defined as sixty minutes. The calculation of minimum hours shall exclude the lunch period. Passing time between classes may be counted as part of the hour requirement. School shall be considered in session during parent-teacher conferences as well as during activities such as field trips if students are engaged in programs or activities under the guidance and direction of the instructional professional staff. All grade levels of the school or school district must be operated and available for attendance by all students. Schools or school districts have flexibility on how they can reach the threshold of 1,080 hours but must keep annual documentation of how they met that standard. The school

calendar may include more than, less than or equal the 180 day schedule. The hours included in an individual day under an hours format may vary.

ITEM 3. Amend rule **281---12.1(9-11)** as follows:

281--- 12.1(9) Minimum school day. A school day, for those utilizing a school calendar based on days, shall consist of a minimum of ~~5½~~ 6 hours of instructional time for all grades 1 through 12. The minimum hours shall ~~be excluded~~include the lunch period. Passing time between classes as well as ~~time spent on parent teacher conferences~~ may be counted as part of the ~~5½~~ 6 hour requirement. School shall be considered in session during parent-teacher conferences as well as during activities such as field trips if students are engaged in programs or activities under the guidance and direction of the instructional professional staff. ~~The school or school district may record a day of school with less than the minimum instructional hours if emergency health or safety factors require the late arrival or early dismissal of students on a specific day; or if the total hours of instructional time for all grades 1 through 12 in any five consecutive school days equal a minimum of 27½ hours, even though any one day of school is less than the minimum instructional hours because staff development is provided for the instructional professional staff or because parent teacher conferences have been scheduled beyond the regular school day.~~

~~Furthermore, if the total hours of instructional time for the first four consecutive days equal at least 27½ hours because parent teacher conferences are held beyond the regular school day, a school or school district may record zero hours of instructional time on the fifth consecutive school day as a minimum school day.~~

281--- 12.1(10) Day or hour of attendance. A day or hour of attendance shall be a day or hour during which students are present and under the guidance and instruction of the instructional professional staff. When staff development designated by the board or by authorities in charge

of an accredited nonpublic school occurs outside of the time required for a “minimum school day,” students shall be counted in attendance. (Note exceptions in subrules 12.1(8) and 12.1(9).)

281---12.1(11) Kindergarten. The number of instructional days or hours within the school calendar and the length of the school day for kindergarten shall be defined by the board or by authorities in charge of an accredited nonpublic school that operates a kindergarten program.

~~This subrule applies to an accredited nonpublic school only if it offers kindergarten.~~

ITEM 4. Establish rule **281---12.1(12)** as follows:

281---12.1(12) Director’s review of early start date request. The director of the department of education or the director’s designee may grant a request made by a board of directors of a school district to start the school year earlier than the date specified in Iowa Code section 279.10(1) and Iowa Administrative Code subrule 12.1(7). A request shall be based upon the determination that a starting date on or after the earliest starting date specified in Iowa Code section 279.10(1) would have a significant negative educational impact. The burden of proving significant negative educational impact shall be upon the school district making the request pursuant to Iowa Code section 279.10(4) and this subrule.

281 --- 12.1(12)(a) Significant negative educational impact. As used in this chapter:

“Significant negative educational impact” means an adverse effect on student academic achievement. The criteria relevant to determine a significant negative educational impact shall be as follows:

1. Expedited review and approval of requests for a start date within 7 days prior to the date prescribed by Iowa Code section 279.10. If the requested start date is within 7 days prior to the date prescribed by 279.10, a school district shall declare the existence of a significant negative educational impact, by resolution adopted after a public hearing. A copy of

such resolution shall accompany the school district's request. The director shall deem such request sufficient if it is properly and timely filed.

2. Request for a start date more than 7 days prior to the date prescribed by

Iowa Code section 279.10. If the requested start date is within 11 days prior to the date prescribed by Iowa Code section 279.10, and September 1 of the year for which the request is made is a Monday or Tuesday, the expedited review and approval procedures outlined in paragraph 1 apply. If the requested start date is more than 7 days prior to the date prescribed by Iowa Code section 279.10, and September 1 of the year for which the request is made does not fall on a Monday or Tuesday, a school district shall demonstrate significant negative educational impact by satisfying a majority of the following criteria:

A. A start date of 7 days or less than the statutory start date is not feasible;

B. Academic achievement will be negatively impacted in the requesting school district by the start date specified in Iowa Code, as measured by test scores and as supported by scientifically based research. As used in this paragraph, "scientifically based research" has the meaning specified by the U.S. Department of Education;

C. The start date specified in Iowa code would harm academic achievement despite the school district's adoption of hours rather than days and the flexibility provided by Iowa Code section 256.7(19), as amended by House File 215, and subrules 12.1(7) through 12.1(11);

D. Taxpayer interests would be significantly harmed by the date specified in Iowa Code because actual budget savings could be produced by an earlier start date;

E. The start date specified in Iowa Code will present a hardship on the district's workforce such that it would be difficult to retain and attract quality staff, which will result in a negative effect on student academic achievement.

F. The statutory start date conflicts with extracurricular, community, or educational opportunities, which will result in a negative effect on student academic achievement;

G. The statutory start date prevents completion of the first semester prior to winter break, which will result in a negative effect on student academic achievement;

3. Example Start Dates. For demonstrative purposes, the chart below outlines the statutory start date in future years, along with the earliest start date under the expedited review and approval process outlined in this rule.

<u>Year</u>	<u>Statutory Start Date</u>	<u>Earliest Start Date Under Expedited Review and Approval</u>
2014	9-1*	8-21*
2015	8-31*	8-20*
2016	8-29	8-22
2017	8-28	8-21
2018	8-27	8-20
2019	8-26	8-19

**9/1 falls on a Monday or Tuesday, so expedited review and approval is available for start dates up to 11 days early.*

281---12.1(12)(b). Director's review. The director or the director's designee shall exercise sole discretion in determining whether to grant or deny a request under Iowa Code section 279.10(4) and this subrule. The director or the director's designee may grant a request subject to certain

conditions as prescribed by the director or director's designee. The director or the director's designee may grant fewer days than the number requested by the school district. Judicial review of the decision to grant or deny an application may be taken in accordance with Iowa Code chapter 17A.

281---12.1(12)(c). Annual request required. For the 2014-15 school year, a school district requesting approval of an earlier start date shall file such request with the department no later than March 15, 2014. The department shall notify the districts of the approval or denial of the request in a timely manner. For all succeeding years, a school district requesting approval of an earlier start date shall file such request annually with the department no later than November 1 of the preceding school year. All requests shall include proof of a significant negative educational impact as outlined in subrule 12.1(12)(a). The department shall notify the districts of the approval or denial of the request not later than the following January 15. Each application shall be reviewed without regard to whether prior applications by the district were granted or denied by the department.