

TITLE V
NONTRADITIONAL STUDENTS

CHAPTER 31
COMPETENT PRIVATE INSTRUCTION AND DUAL ENROLLMENT

[Prior to 9/7/88, see Public Instruction Department[670] Ch 63]

281—31.1(299) Purpose. It is the purpose of this chapter to give guidance to parents, guardians, and custodians, school boards, and teachers providing or assisting and supervising competent private instruction to children of compulsory attendance age outside the traditional school setting. This chapter also proposes to establish responsibilities related to dual enrollment.

281—31.2(299) Reports as to competent private instruction.

31.2(1) Reporting. The parent, guardian, or legal or actual custodian of a child of compulsory attendance age who does not enroll the child in a public school or Iowa accredited nonpublic school shall complete a report in duplicate on forms created by the department of education and provided by the resident public school district, indicating the parent, guardian, or custodian's intent to provide or arrange for competent private instruction for the child for each school year. The report shall be filed with the school board secretary by the first day of school in the resident district, except as otherwise provided by these rules.

a. The report shall include the following information:

- (1) The name and address of the parent, guardian, or custodian reporting;
- (2) The name and birth date of the child;
- (3) An indication of the number of days of instruction, which must be a minimum of 148 days per academic year;
- (4) The name and address of the person providing competent private instruction to the child and an indication of whether that person is the holder of a valid Iowa practitioner license or teaching certificate appropriate to the age and grade level of the child being taught;
- (5) An outline of the courses of study, including subjects covered, lesson plans, and time spent on the areas of study;
- (6) The titles and authors or publishers of the texts to be used;
- (7) Evidence of immunization of the child, as required by law, if the child is being placed under competent private instruction for the first time.

b. The report shall also seek the following information, which may be supplied by the person filing the report:

- (1) An indication of whether and to what extent dual enrollment of the child in the public school is desired;
- (2) An indication of whether the child is currently identified as a child requiring special education pursuant to the rules of special education;
- (3) An indication of which form of annual assessment, if applicable, is to be administered to the child and which test, if known, is desired.

31.2(2) Late reporting. If a parent, guardian, or legal or actual custodian decides, after enrolling a child of compulsory attendance age in a public or accredited nonpublic school and after the deadline for filing a report under subrule 31.2(1), that the parent wishes to provide competent private instruction to the child, the parent, guardian, legal or actual custodian shall file the report required no later than 14 calendar days after removing the child from the public or accredited nonpublic school. Days of the child's attendance in the public or nonpublic school up to the time of removal shall be applied to the 148-day minimum compulsory attendance requirement for the school year affected.

281—31.3(299) Duties of licensed practitioners.

31.3(1) *Licensing requirements.* A person who provides instruction to or instructional supervision of a student receiving competent private instruction shall be either the student's parent, guardian, or legal custodian or a person who possesses a valid Iowa teaching certificate or practitioner license which is appropriate to the age and grade level of the student under competent private instruction.

31.3(2) *Duties.* The duties of a certificated or licensed teacher practitioner who instructs or provides instructional supervision of a student shall include the following:

a. Contact with the student and the student's parent, guardian, or legal custodian at least twice per 45 days of instruction, during which time the teacher practitioner fulfills the duties described below. One of every two contacts shall be face-to-face with the student under competent private instruction.

However, if the instruction or instructional supervision is provided by a public or accredited nonpublic school in the form of a home school assistance program, the teacher practitioner shall have contact with the child and the child's parent, guardian, or legal custodian at least four times per quarter during the period of instruction. One of every two contacts shall be face-to-face with the student under competent private instruction.

b. Consulting with and advising the student's parent, guardian, or legal custodian with respect to the following during the course of the year's visits:

- (1) Lesson plans;
- (2) Textbook and supplementary materials;
- (3) Setting educational goals and objectives;
- (4) Teaching and learning techniques;
- (5) Forms of assessment and evaluation of student learning;
- (6) Diagnosing student strengths and weaknesses;
- (7) Interpretation of test results;
- (8) Planning;
- (9) Record keeping; and
- (10) Other duties as requested or agreed upon.

c. Providing formal and informal assessments of the student's progress to the student and the student's parent, guardian, or legal custodian.

d. Annually maintaining a diary, record, or log of visitations and assistance provided.

e. Referring to the child's district of residence for evaluation a child who the practitioner has reason to believe may be in need of special education.

31.3(3) *Limitations.* A licensed Iowa practitioner who is employed or agrees to provide instruction or instructional supervision of programs of competent private instruction shall not serve in that capacity on behalf of more than 25 families, or more than 50 children of compulsory attendance age, in an academic year unless the service is provided pursuant to the teacher's employment with a nonaccredited nonpublic school.

A licensed Iowa practitioner who is employed by a public or accredited nonpublic school to provide instruction or instructional supervision through a home school assistance program, as defined in subrule 31.4(5), shall not serve in that capacity on behalf of more than 20 families, or more than 40 children of compulsory attendance age, in an academic year.

A licensed practitioner or authorities in charge of a public or accredited private school may seek exemption from the above limitation by submitting a written request to the director of education. Exemptions shall be granted when the director is satisfied that the limitation will pose a substantial hardship on the person or the school providing instruction or instructional supervision, and that the best interests of all children being served by the practitioner or school will continue to be met.

281—31.4(299A) School district duties related to competent private instruction.**31.4(1) *Reports.***

a. The secretary of a public school district shall make available reporting forms developed by the department of education and shall receive reports as to competent private instruction, maintaining one copy in the district and forwarding one copy to the area education agency as required by law.

b. The secretary of the district shall provide forms to any accredited nonpublic school located within the district for the purpose of reporting the nonpublic school's student enrollment data as required by law. The district secretary shall notify the appropriate school districts of nonresident students enrolled in accredited nonpublic schools within the district.

c. The district shall review the completed form to ascertain whether the person filing has complied with the reporting requirements of the law and these rules. Specifically, the district shall determine from the report that the person providing the instruction is either the child's parent, guardian, custodian or a person with a valid Iowa practitioner's license appropriate to the age and grade level of the child; that the designated period of instruction is at least 148 days per academic year; that immunization evidence is provided for children placed under competent private instruction for the first time; and that the report is timely under these rules.

d. The district shall annually report to the department of education by April 1 the names of all resident children who are subject to an annual assessment and what form of assessment has been chosen by the child's parent, guardian, or legal custodian. The district shall cooperate with the department in gathering standardized test reports or portfolio evaluation reports for each child subject to annual assessment.

e. The district shall report noncompliance with the reporting, immunization, attendance, instructor qualifications, and assessment requirements of the compulsory attendance law and these rules to the county attorney for the county of residence of the child's parent, guardian, or legal custodian.

f. Upon the request of a parent, guardian, or legal custodian of a child of compulsory attendance age who is under competent private instruction, or upon the referral of a licensed practitioner who provides instruction or instructional supervision of a child of compulsory attendance age who is under competent private instruction, the district shall refer a child who may require special education to the area education agency division of special education for evaluation.

31.4(2) Testing assistance.

a. If a child is under dual enrollment, the district shall administer standardized tests, when the standardized test option has been selected by the child's parent, guardian, or legal custodian, to the child or may delegate the test administration to the appropriate area education agency. If the child is under dual enrollment, no fee is charged to the parent, guardian, or legal custodian.

b. If a child under competent private instruction, and not under dual enrollment, is to be administered a standardized test for purposes of assessment, the district shall charge and collect from the child's parent, guardian, or legal custodian a fee for the actual cost of the testing if administered by the public school or area education agency. The fee shall include the cost of the test materials, a prorated fee reflective of the personnel costs of administration based upon the number of students taking the test, and the cost of scoring.

c. If a student has been administered an approved standardized test by a nonpublic school during the academic school year for which testing is required, and the administration of the test has met the terms or protocol of the test publisher, the results may be submitted to the resident district and the department of education in original form by either the test administrator or the parent, guardian, or legal custodian of the child being tested, in satisfaction of the annual assessment option. The submitted test results shall be accompanied by a certification statement signed by the test administrator to the effect that the publisher's protocol or terms required for test administration have been met.

d. The district shall maintain as any other confidential education record the standardized testing results for each resident child for whom the district or area education agency administers the test.

31.4(3) Finance. A public school district may count a competent private instruction student for purposes of its certified enrollment only under the following circumstances:

a. A resident student or the student's parent, guardian, or legal custodian has requested dual enrollment, in which case the student is counted as authorized by law. However, if the student is receiving special education services or instruction, the student shall qualify for additional weighting pursuant to the provisions of Iowa Code section 257.6; or

b. The school district provides an Iowa licensed practitioner to instruct or to assist and supervise parents, guardians, or legal custodians providing competent private instruction and the child has been enrolled in the district's home school assistance program.

31.4(4) *Provision of instructional materials.*

a. A public school district may not make monetary payments directly or indirectly to the parent, guardian, or legal custodian or to a child receiving competent private instruction.

b. A district may provide to children receiving competent private instruction available texts or supplementary materials on the same basis as they are provided to enrolled students, and shall provide available texts or supplemental instructional materials on the same basis as they are provided to enrolled students when a child is under dual enrollment or in a home school assistance program. If a fee, such as a textbook or towel rental fee, is charged to regularly enrolled students for participation in a class or extracurricular activity, that fee may also be charged to dual-enrolled students on the same basis as it is charged to enrolled students, but only for the specific class or extracurricular activity taken.

c. The parent, guardian or legal custodian who provides competent private instruction to a child of compulsory attendance age may access the services and materials available from the area education agency by requesting assistance through the school district of residence. The AEA shall make services and materials available to the child on the same basis as they are available to regularly enrolled students of the district if the child is dual enrolled or enrolled in a home school assistance program. The district of residence shall act as liaison between the parent, guardian, or legal custodian of a child who is receiving competent private instruction and the area education agency.

31.4(5) *Home school assistance programs.* A school district or accredited nonpublic school may offer an assistance program for parents, guardians, or legal custodians providing private instruction to a child of compulsory attendance age. A parent, guardian, or legal custodian of a child of compulsory attendance age may enroll the child in a home school or private instruction assistance program in a school district or accredited nonpublic school.

An assistance program offered by a school district or accredited nonpublic school shall, at a minimum, meet state licensure standards for accredited school personnel in designating a practitioner to provide instruction or instructional supervision of a competent private instruction program, including special education instruction, and shall meet the applicable provisions of rule 31.3(299). The district may impose additional requirements upon children enrolled in its home school assistance program.

A home school assistance program is not dual enrollment, but the parent, guardian, or legal custodian of a child enrolled in a home school assistance program may request dual enrollment in addition to enrollment in a home school assistance program.

281—31.5(299A) Dual enrollment.

31.5(1) The parent, guardian, or legal custodian of a child of compulsory attendance age who is receiving competent private instruction may enroll the child in the public school district of residence of the child under dual enrollment. The parent, guardian, or legal custodian desiring dual enrollment shall notify the district of residence of the child not later than September 15 of the school year for which dual enrollment is sought.

31.5(2) A child under dual enrollment may participate in academic or instructional programs of the district on the same basis as any regularly enrolled student.

31.5(3) A child under dual enrollment may participate in any extracurricular activity offered by the district on the same basis as regularly enrolled students. If a child under dual enrollment was under competent private instruction the previous semester, the provisions of 281—subrule 36.15(2), paragraph "c," shall not apply. However, other rules and policies of the state and district related to eligibility for extracurricular activities shall apply to the child. If a student seeking dual enrollment is enrolled in a nonaccredited nonpublic school that is an "associate member" of the Iowa Girls High School Athletic Union or Iowa High School Athletic Association the student is eligible and may participate in interscholastic athletic competition only for the associate member school or a school with which the associate member school is in a cooperative sharing program as outlined in 281—36.20(280).

31.5(4) The district shall notify the child's parent, guardian, or legal custodian of the academic and extracurricular activities available to the child.

31.5(5) A child under dual enrollment is eligible to receive the services and assistance of the appropriate area education agency on the same basis as are children otherwise enrolled in the district. The district shall act as liaison between the parent, guardian, or legal custodian of a child who is receiving competent private instruction and the area education agency.

281—31.6(299) Open enrollment.

31.6(1) The parent, guardian, or legal custodian of a child receiving competent private instruction may request open enrollment to another public school district by following the procedures of the open enrollment law, Iowa Code section 282.18.

31.6(2) A district receiving a nonresident open enrollment student who is under competent private instruction may not bill the resident district for the costs of instructing the student unless the receiving district complies with the applicable provisions of rules 31.3(299) and 31.4(299A).

31.6(3) In the event that the parent, guardian, or legal custodian of a nonresident open enrollment student under private instruction fails to comply with state law and these rules related to competent private instruction, the receiving district shall notify the secretary of the school district of residence of the child's parent regarding the noncompliance.

281—31.7(299A) Baseline testing and annual assessment.

31.7(1) *When required.* When a parent, guardian, or legal custodian of a child of compulsory attendance age provides private instruction to a child without the assistance or supervision of a validly licensed Iowa practitioner as required by law and these rules, and the parent, guardian, or legal custodian does not hold a valid Iowa practitioner license appropriate to the ages and grade levels of the child under competent private instruction, the child is subject to initial baseline testing and an annual evaluation.

For the 1992-93 school year and thereafter, a child who is at least seven years old by September 15, who begins a program of competent private instruction and is subject to the annual assessment requirement, shall be administered a baseline test for the purposes of obtaining educational data. The baseline test shall be taken by June 30, 1993, for programs of competent private instruction begun in school years 1991-92 and 1992-93, and shall be taken by May 1 in ensuing school years. Any test listed in subrule 31.7(2) may be used to fulfill the baseline test requirement, provided that the copyright date of the test publisher's published national norms that are used for the test results being reported is within eight years of the school year in which the test is administered.

The parent, guardian, or legal custodian may select either standardized testing or portfolio assessment for purposes of fulfilling the annual evaluation requirement of the law.

31.7(2) *Standardized testing.* A parent, guardian, or legal custodian of a child, who chooses standardized testing for the purpose of determining whether the child is making adequate educational progress, shall select one of the following instruments for the child to take:

a. California Achievement Test (CAT); CTB McMillan/McGraw Hill.

Reading: K-12.9

Language: K-12.9

Mathematics Composite: K-12.9

Science: 1.6-12.9

Social Studies: 1.6-12.9

b. Comprehensive Test of Basic Skills (CTBS).

Reading: K-12.9

Language: 1.0-12.9

Mathematics Composite: K.1-12.9

Science: 1.0-12.9

Social Studies: 1.0-12.9

c. Iowa Tests of Basic Skills (ITBS); The Riverside Publishing Company.

Reading: K.8-9.9

Language Total: K.1-9.9

Mathematics Total: K.1-9.9

Science: 1.7-9.9

Social Studies: 1.7-9.9

d. Iowa Tests of Educational Development (ITED); The Riverside Publishing Company.

Written Expression: 9.0-12.9

Quantitative Thinking: 9.0-12.9

Social Studies: 9.0-12.9

Natural Science: 9.0-12.9

Literary Materials: 9.0-12.9

Vocabulary: 9.0-12.9

Sources of Information: 9.0-12.9

e. Metropolitan Achievement Tests (MAT); The Psychological Corporation.

Reading: K.0-12.9

Language: K.0-12.9

Mathematics Composite: K.0-12.9

Science: 1.5-12.9

Social Studies: 1.5-12.9

f. Stanford Achievement Test; The Psychological Corporation.

Reading: K.0-12.9

Language: 1.5-12.9

Mathematics Composite: 1.5-9.9

Science: 3.5-12.9

Social Studies: 3.5-12.9

g. Stanford Achievement Test, Abbrev.; The Psychological Corporation.

Reading: 1.5-12.9

Language: 1.5-12.9

Mathematics Composite: 1.5-9.9

Science: 3.5-12.9

Social Studies: 3.5-12.9

Braille or large print editions of the above tests are available for vision-impaired children. Testing norms are available for the vision- and hearing-impaired child.

In the event that the parent, guardian, or legal custodian of a child under competent private instruction and subject to the annual assessment requirement wishes to have the child take a standardized test not listed above, the parent shall request permission of the director of the department of education to use a different test. The decision of the director shall be final.

A child under competent private instruction and subject to an annual evaluation whose educational program and instructional materials are designed for students in grades 1 through 5 shall, at a minimum, be tested in the areas of reading, language, and mathematics. A child whose educational program and instructional materials are designed for students in grades 6 through 12 shall, at a minimum, be tested in the areas of reading or literary materials, language or written expression, mathematics or quantitative thinking, science, and social studies.

A child subject to the annual assessment requirement, who takes a standardized test from the above list, shall take a grade level form of the test that corresponds most closely to the child's chronological age unless permission is granted by the test administrator to take another grade level form of the test. When a parent, guardian, or legal custodian requests another form of the test, the test administrator shall make a decision based upon the following:

(1) A review of the instructional materials used by the child in the education program;

(2) Results of curriculum-based measurement techniques including the administering of probes;

and

(3) A review of current samples of the child's work product.

The decision of the test administrator as to the appropriate grade level form of the standardized test to be taken shall be final.

If retesting is desired, a different form of the same test or a different test shall be administered to the child sufficiently in advance to allow for processing of the test results prior to the first day of classes of the succeeding school year of the resident school district.

31.7(3) *Testing times and sites.* Standardized test results are normed against a population taking the same test at approximately the same time of year. Norms for the above listed tests exist for fall, winter, and spring. Because the annual assessment is used, in part, to determine whether the child has made at least six months' progress from the previous test, annual standardized tests used for determining whether adequate progress has been achieved shall be taken at approximately the same time each year.

The school district of residence of the child shall annually, by October 1, provide the following notification to a parent, guardian, or legal custodian who has selected the standardized testing form of evaluation for a child under competent private instruction:

a. The times and dates when standardized tests will be administered by the public school district and the area education agency over the school year, including fall, winter, and spring testing times. A school district or area education agency shall administer standardized tests at the child's home when testing in the home is requested;

b. A data sheet showing the costs associated with each test listed in subrule 31.7(2); and

c. A reply form for the parent, guardian, or legal custodian to complete indicating the date, location, and test selected, including the grade level form of the test; an indication of whether the parent, guardian, or legal custodian wishes to be present for testing; and any special requests such as Braille or large print forms of the test.

School districts and area education agencies shall cooperate in the purchasing and processing of test materials to reduce the cost of testing insofar as possible.

Unless the child is under dual enrollment, the parent, guardian, or legal custodian of a child who has selected the standardized testing option of annual assessment shall timely reimburse the school district for the cost of testing the child.

31.7(4) *Portfolio assessment or evaluation.* In lieu of standardized testing for purposes of annual assessment, a parent, guardian, or legal custodian of a child under competent private instruction and subject to the annual assessment requirement may arrange to have a qualified, licensed, Iowa practitioner review a portfolio of evidence of the child's progress by May 1, 1993, and annually by May 1 thereafter, subject to the following requirements:

a. Portfolio evaluators. A single evaluator shall be designated by each parent, guardian, or custodian who has selected the portfolio evaluation option for annual assessment. The evaluator so identified shall be approved by the superintendent of the local school district or the superintendent's designee, and shall hold a valid Iowa practitioner license or teacher certificate appropriate to the ages and grade levels of the children whose portfolios are being assessed.

For children whose grade level of study is any of grades 1 through 5, the portfolio evaluator shall hold a valid Iowa license as an elementary practitioner or an elementary endorsement.

For children whose grade level of study is in any of grades 6 through 9, the portfolio evaluator shall hold a valid Iowa license as either an elementary or a secondary practitioner or hold either an elementary or a secondary endorsement. For children whose grade level of study is in any of grades 10 through 12, the portfolio evaluator shall hold a valid Iowa license as a secondary practitioner or hold a secondary endorsement.

A portfolio evaluator may not evaluate the portfolios of more than 25 students per year without permission of the director of the department of education.

b. Contents of portfolio. The child's portfolio shall contain evidence of academic progress in the minimum curriculum areas of reading, language arts, and mathematics if the child under private instruction is in grade levels 1 through 5. For children in grade levels 6 through 12, the portfolio shall contain evidence in the minimum curriculum areas of reading, language arts, mathematics, science, and social studies.

For each curriculum area, the portfolio shall include a book of lesson plans, a diary, or other written record indicating the subject matter taught and activities in which the child has been engaged, and an outline of the curriculum used by the child. The portfolio may also include a list of, a reference to, or material from the textbooks and resource materials used by the student in each subject area.

The portfolio shall also include copies of tests or other formal and informal assessment instruments used to measure student progress over the current academic year if given, a copy of the baseline test, and the most recent assessment report of the student's annual progress.

For each subject area to be evaluated, the portfolio shall include examples of the student's work, and may include self-assessments by the student.

c. The parents of a child subject to the annual assessment requirement who has a physical or mental disability so significant that the results of a standardized test would be meaningless for assessment purposes may request the department's approval of an alternative evaluation.

d. For a child subject to annual assessment who is enrolled as a student of a correspondence school which is a member of a national or regional accrediting association which is recognized by the United States Secretary of Education and accredited for elementary and secondary education, the department may accept as an alternative assessment the annual report of progress sent by the correspondence school to the child's parents, if the annual report of progress includes a listing of subjects taken and grades received. A passing grade in all content areas for which annual assessment is required shall be deemed evidence of adequate progress for the purpose of annual assessment.

281—31.8(299A) Reporting assessment results.

31.8(1) *Baseline tests.* The baseline test results of each child subject to the baseline test requirement of Iowa Code section 299B.4 and subrule 31.7(1) shall be reported by the test administrator to the school district of residence of the child and to the department of education by June 30 of the year in which the test was taken.

The baseline test shall serve only as data from which subsequent progress shall be measured; the baseline test alone is not an indication of educational progress or a lack of progress.

31.8(2) *Standardized tests.* The results of a standardized test taken by a child subject to the annual assessment requirements shall be reported by the test administrator to the district of residence of the child and to the department of education by June 30 of the year in which the test was taken. The results shall be submitted in original form as received from the agency responsible for scoring the test.

31.8(3) *Portfolio assessments.* The assessment results of a child's educational portfolio made by a qualified Iowa licensed practitioner or practitioners shall be submitted by the portfolio evaluator(s) to the child's parent, guardian or legal custodian, the district of residence of the child, and the department of education by June 30 of the year in which the assessment was done.

The report shall be in narrative form and shall include assessments of the child's achievement and progress in the curriculum areas including reading, language arts, and mathematics for children whose grade level of study is fifth grade and below, and those subjects plus the additional areas of science and social studies for students whose grade level of study is sixth grade and above. The report shall include a statement as to whether the child has demonstrated adequate progress in each of the areas of study for which the portfolio evaluator is qualified to provide an assessment. The report shall be signed by each evaluator.

281—31.9(299A) Special education students. When a child has been identified as currently requiring special education, the child is eligible to receive competent private instruction with the written approval of the director of special education of the area education agency of the child's district of residence.

The director of special education of each area education agency shall issue a written decision, approving, conditioning approval on modification of the proposed program, or denying approval, based upon the appropriateness of the proposed competent private instruction program for the child requiring special education, considering the child's individual disability.

The request for approval for placement under Competent Private Instruction by the parent or guardian may be presented to the special education director at any time during the calendar year. If the special education director denies approval or if no written decision has been rendered within 30 calendar days, that decision or the absence thereof is subject to review by an impartial administrative law judge under provisions of 20 U.S.C. Section 1401 et seq., federal regulations adopted thereunder, and Iowa Code section 256B.6 and rules adopted thereunder found at 281—41.112(17A,256B,290) et seq.

If a parent, guardian, or legal custodian of a child requiring special education provides private instruction without the approval of the director of special education, the director may either request an impartial hearing before an administrative law judge under the rules of special education, 281—41.112(17A,256B,290), or notify the secretary of the child's district of residence for referral of the matter to the county attorney pursuant to Iowa Code section 256B.6, incorporating chapter 299.

A program of competent private instruction provided to a student requiring special education is not a program of special education for purposes of federal and state law.

The director of special education shall advise the parent, guardian, or legal custodian of a child requiring special education of the probable consequences of placing the child under private instruction and withdrawing the child from specialized instruction and services to which the child is entitled. The director of special education may require the parent, guardian, or legal custodian of a child requiring special education to accept full responsibility for the parent's, guardian's or legal custodian's decision to reject special education programs and services, forgoing a later request for compensatory education for the period of time when the child was under private instruction.

These rules are intended to implement Iowa Code chapters 299 and 299A.

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