

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Education	Date:	August 21, 2023	Total Rule Count:	7
IAC #:	281	Chapter/ SubChapter/ Rule(s):	37	Iowa Code Section Authorizing Rule:	280.13
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PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit is to ensure schools have membership to an activities conference.

Is the benefit being achieved? Please provide evidence.

Yes. Conference membership disputes are relatively rare (less than one/year) and are resolved through the rule process.

What are the costs incurred by the public to comply with the rule?

Costs are minimal.

What are the costs to the agency or any other agency to implement/enforce the rule?

There are dispute resolution costs in the event of a conference membership dispute. Those costs are the time and effort of the organization executives. Those costs are defrayed by association membership dues.

Do the costs justify the benefits achieved? Please explain.

Yes. School conference membership disputes are rare and readily resolved.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Without a rule, there would be no mechanism to ensure a school was not unfairly excluded from a conference.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

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The Department proposes removing unnecessarily restrictive language, as well as consolidating rules for improved organization.

RULES PROPOSED FOR REPEAL (list rule number[s]):

Rule 37.2 (consolidated with another rule)
Rule 37.7 (consolidated with another rule)

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

See below.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	2
Proposed word count reduction after repeal and/or re-promulgation	9
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	23

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

None noted.

Proposed Chapter 37:

CHAPTER 37
EXTRACURRICULAR ATHLETIC ACTIVITY
CONFERENCE FOR MEMBER SCHOOLS

281—37.1(280) General. It is the policy of the state of Iowa that each school desiring to be a member of a conference providing extracurricular athletic contests and competitions for students is granted this opportunity. For purposes of this chapter, member school means a school or school district granted such status by any corporation, association, or organization registered with the state department of education pursuant to Iowa Code section 280.13, and includes associate members.

37.1(1) Criteria. To the maximum extent appropriate, membership shall be with other schools of comparable size and within reasonable geographic proximity.

37.1(2) Initial responsibility. The initial authority and responsibility for conference development, membership, and alignment rests with the board of directors of each public school district and the authorities in charge of each nonpublic school.

281—37.2(280) Complaint to the director, department of education. A member school that believes it has been unfairly excluded or prevented from obtaining membership in an athletic activity conference that would provide the opportunity for participation of its students in athletic events or contests with students from other member schools of comparable size and within reasonable geographic proximity may file a complaint stating this concern with the director of the department of education. The complaint is to set forth in a plain and concise manner the reasons the member school believes the director should intervene in conference alignment decisions and the specific relief requested by the member school. The complaint is to be signed by the president of the board of directors of a public school district or a representative of the officials in charge of an accredited nonpublic school. The director or the director's designee will, within ten days, acknowledge to the member school receipt of the complaint in writing.

281—37.3(280) Mediation. The director of the department of education will establish a mediation team consisting of the executive director of the Iowa High School Athletic Association (hereinafter association) and the executive secretary of the Iowa Girls' High School Athletic Union (hereinafter union) organizations recognized in 281—Chapter 36, or their designees, to meet with the complainant and representatives of other affected member schools. If the complaint involves conference alignment for athletic activities represented by only one of the organizations, only that organization will be involved in the mediation. A copy of all materials filed with the director by the complainant member school will be provided to the mediation team.

The mediation team will meet with administrators or board members of schools potentially affected by changes in conference alignment related to the complaint. Schools will send representatives who have knowledge of the impact of a conference realignment and full authority to respond on behalf of their member school. Factors to be weighed in reaching resolution include school enrollment figures (current and projected), travel distances, comparability of instructional programs, traditional rivalries, number of existing and proposed schools in the conference, and comparability of athletic programs and other school-sponsored programs.

281—37.4(280) Resolution or recommendation of the mediation team. If mediation results in resolution of the complaint, no

further action is necessary on the part of the director, and the implementation of the mediation agreement will be left with the boards of directors of school districts and the authorities in charge of nonpublic schools. If no resolution is reached within 50 days of the start of the mediation process, the mediation team will make a recommendation to the director as to the best resolution of the complaint. Copies of this recommendation will be given to all affected member schools. The director will establish a time for a hearing on this recommendation within 45 days of the receipt of the mediation team's recommendation. The director or director's designee will conduct the hearing, at which time all affected parties will be given the opportunity to provide oral or written testimony or submit other evidence. The director or director's designee reserve the right to establish time limits on appearances at the hearing.

281—37.5(280) Decision; effective date. In reaching a decision on the complaint, the director will consider information gathered by the mediation team and its recommendation as well as the written and oral testimony from the hearing. In addition, the director or the director's designee may consult with other individuals, organizations, or conference representatives able to provide input on a decision. If a designee of the director conducts the hearing and review process, the findings of the designee shall be reviewed by the director. A final decision on the complaint will be made by the director. The decision may affect conference realignment or direct other appropriate relief to remedy the complaint. The director will make a decision within 60 days of the hearing, and copies of the decision will be provided to all affected parties.

If the decision results in conference realignment, the date of this change shall be made with deference given to existing contracts and commitments. Alignment changes will be made for four-year periods with automatic review by the director after two years so that further necessary changes take effect at the conclusion of the four-year period, unless agreement exists that implementation of the changes can occur at an earlier date.

These rules are intended to implement Iowa Code section 280.13.