

Answers to Questions Posed after the Department's 2010 ICN Presentation on Providing Special Education Services in Iowa's Accredited Nonpublic Schools

Due to problems with the ICN technology at the September 2010 ICN presentation on serving students with disabilities enrolled by their parents in accredited nonpublic schools, the Department of Education offered all persons in attendance the opportunity to submit written questions. The Department received several important questions. The Department's answers to these questions are below. The Department has revised some of these questions to remove student-identifying or school-identifying information.

Q# 1. May an AEA invite all accredited nonpublic schools to a "forum" and count this toward its required consultation activity?

A# 1. By rule, an AEA is required to "consult with representatives" of accredited nonpublic schools. Iowa Admin. Code r. 281 – 41.134. How an AEA conducts that consultation is a matter of local governance. Such a forum could be one way of meeting the rule's requirements.

Q# 2. What are an AEA's obligations if representatives of the accredited nonpublic schools do not participate in the consultation process?

A# 2. An AEA is to document the attempts it made to convince representatives to participate in the consultation process, including meeting by alternative means, such as audio or video conference call. If no representative from an accredited nonpublic school participates in the consultation process, the AEA is to forward "documentation of the consultation process" (including attempts to convince nonpublic school representatives to participate) to the Department. Iowa Admin. Code r. 281 – 41.135.

Q# 3. What is the procedure to follow when a child who attends an accredited nonpublic school is suspected of being an eligible individual?

A# 3. The procedures for evaluating nonpublic schoolchildren for special education eligibility must be similar to those for evaluating public schoolchildren for special education eligibility. Iowa Admin. Code r. 281 – 41.131(3).

Q# 4. What timeframe applies for evaluating a student in an accredited nonpublic school for special education eligibility?

A# 4. The same timeframes that would apply to a public school student apply to a nonpublic schoolchild suspected of having a disability, including the sixty

calendar day period in which to complete the full initial evaluation. Iowa Admin. Code rr. 281 – 41.131(5), 41.301.

Q# 5. If a child attending an accredited nonpublic school is found to be eligible for special education services, which public agency staff members participate in writing the child's IEP?

A# 5. This would depend on the needs of the child. If the child would require instructional services, than an LEA staff member would customarily participate in drafting the child's IEP. If the child requires support services, then an AEA staff member would participate. If the child requires both instructional and support services, then staff members from the AEA and LEA participate.

Q# 6. A parent enrolls a child with a disability who resides in another state in an Iowa accredited nonpublic school. What are the responsibilities to that child?

A# 6. The child is entitled to support services from the AEA, consistent with the consultation process. Iowa Admin. Code r. 281 – 41.131(6). The child is not entitled to instructional services from the LEA. If the child is to receive services from the LEA, the parents must pay tuition to the LEA.

Q# 7. A parent enrolls a child who is suspected of having a disability who resides in another state in an Iowa accredited nonpublic school. What are the responsibilities to that child?

A# 7. The AEA and LEA must seek parent consent to evaluate and conduct the evaluation at no cost to the parent, even if the child resides in another state. Iowa Admin. Code r. 281 – 41.131(6).

Q# 8. A child attending an accredited nonpublic school requires nursing services. What agency provides those services: the AEA or the LEA?

A# 8. This would depend on the arrangements between the AEA and LEA.

Q# 9. A child attending an accredited nonpublic school requires instructional services. The LEA proposes transporting the child to a public school for sixty minutes of instruction daily. Who pays for the transportation between the public school and the nonpublic school: the parents, the nonpublic school, or the LEA?

A# 9. The school district of the child's residence. Iowa Admin. Code r. 281 – 41.412.

Q# 10. A parent enrolls her child with a disability in an accredited nonpublic school. She asks for speech therapy from the AEA and does not want instructional services from the LEA for her child's reading needs. She asserts that the nonpublic school staff can provide the necessary supports in reading. The AEA and LEA condition speech therapy from the AEA on accepting instructional services from the LEA, insisting that the parent cannot pick-and-choose what services are on the IEP. Can the LEA and AEA do this?

A# 10. It depends. If a service may be removed from the IEP (here, specially designed reading instruction) and the child still receive a FAPE, then the service may be removed. If the service cannot be removed without depriving a FAPE, then the public agencies may insist on providing all services in the IEP. If there is a dispute about whether a service is necessary to provide a FAPE, the parties have procedural safeguards available to them. The parties may consider gathering data on whether the disputed service is necessary, such as through a "trial out." Iowa Admin. Code r. 281 – 41.116(7). The parties may also consider other ways of providing the service with public agency involvement, such as AEA consultation or collaboration with LEA teaching staff.

Q# 11. If the reading service described in Question 10 is provided solely by the nonpublic school staff, may that service be included on the child's IEP?

A# 11. No.

Q# 12. Is there any way for a public agency to provide funding to an accredited nonpublic school so it may employ a special educator or related services provider?

A# 12. As a general rule? No. [There is an extremely narrow exception to this general rule. Iowa Admin. Code r. 281 – 41.142(2).]

Q# 13. A parent enrolls a child with a disability in an unaccredited nonpublic school. Is that child entitled to special education services?

A# 13. Children receiving competent private instruction at an unaccredited "school" are not entitled to special education services. The child is entitled to special education services only if the child is dually enrolled to an accredited school. Services may be provided on the site of an accredited nonpublic or a public school. Services will not be provided on the site of an unaccredited nonpublic school. A child attending an unaccredited "school" who is suspected of having a disability is entitled to a full initial evaluation. Iowa Code § 299A.9.