

## Special Education Services in Difficult Budgetary Times

The Iowa Department of Education understands that school districts and area education agencies are looking for ways to save money and conserve scarce resources. The Department takes this opportunity to remind districts and AEAs about certain parameters imposed by federal and state special education laws.

Shortened Days. The Department is aware that some schools may be considering shortening school days for children with disabilities. State and federal law provides that a school day for a child with a disability is the same school day as for all children. Iowa Admin. Code r. 281 – 41.11(2). The school day of a child with a disability may be shortened only by the child’s IEP team if an altered school day is necessary for a child to receive a free appropriate public education. *Id.* School days may not be shortened for other considerations, such as to reduce transportation costs.

Cost of Services. The Department also knows of districts in Iowa and elsewhere that have impermissibly used cost as a criterion in IEP meetings. The obligation to provide a FAPE to a child does not depend on the cost of providing that FAPE. If a service is required to provide a FAPE, it must be provided regardless of the cost. It is impermissible to provide an inappropriate but less costly service. *See, e.g.,* 71 Fed. Reg. 46589 (Aug. 14, 2006). Cost may only be considered when an IEP team is selecting between two services, either of which would provide a FAPE. In that instance, the team may select the less costly option because, under either option selected, the child would be receiving a FAPE. Finally, please remember that IEP team’s decision about what to provide to a child must be individualized. Categorically excluding certain services is inappropriate. *Letter to Pagano*, 211 IDELR 454 (OSEP 1987). A service that may be an optional luxury to most children might be the only way a certain child could receive a FAPE. Any suggestion that a particular service is “never provided” or “too expensive” is evidence of violation of state and federal special education law.

Student Fees. Many districts are considering increases in student fees. While special education and supported and related services must be provided “at no cost,” Iowa Admin. Code r. 281 – 41.39(1), this does not include student fees charged to all children. The definition of “at no cost” specifically excludes “incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program.” *Id.* If a fee is charged to all children, it is chargeable to students with disabilities. Fees must be authorized by Iowa law and must be waived when the law requires.

If you have any questions or suggestions, please contact the Iowa Department of Education’s Bureau of Student and Family Support Services at (515) 281-3176.