

The Iowa Educational Equity Review Process: Information for Educational Agencies

**Iowa Department of Education
Grimes State Office Building
Des Moines, Iowa 50319**

August 2013

It is the policy of the Iowa Department of Education not to discriminate on the basis of race, creed, color, sex, sexual orientation, gender identity, national origin, disability, religion, age, political party affiliation, or actual or potential parental, family or marital status in its programs, activities, or employment practices as required by the Iowa Code sections 216.9 and 256.10(2), Titles VI and VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000d and 2000e), the Equal Pay Act of 1973 (29 U.S.C. § 206, *et seq.*), Title IX (Educational Amendments, 20 U.S.C. §§ 1681 – 1688), Section 504 (Rehabilitation Act of 1973, 29 U.S.C. § 794), and the Americans with Disabilities Act (42 U.S.C. § 12101, *et seq.*).

If you have questions or grievances related to compliance with this policy by the Iowa Department of Education, please contact Nicole Proesch, the legal counsel for the Iowa Department of Education, Grimes State Office Building, Des Moines, IA 50319-0146, telephone number 515/281-5295, or the Director of the Office for Civil Rights, U.S. Department of Education, Citigroup Center, 500 W. Madison Street, Suite 1475, Chicago, IL 60661.

Table of Contents

Major Federal Legislation	3
Major State Legislation	3
History of Educational Equity Monitoring	6
The Educational Equity Review Process	7
Post-Review Activities	9
Consequences of Continued Non-Compliance	10

Major Federal Nondiscrimination Legislation

1. Title VI of 1964 Civil Rights Act

"No person in the United States shall, on the grounds or race, color or national origin be excluded from, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

2. Title VII of the 1964 Civil Rights Act

Title VII prohibits discrimination in employment on the basis of race, color, religion, national origin, or gender in educational agencies with fifteen or more employees. Areas such as recruitment, hiring, promotion, salaries, benefits and retirement are covered.

3. Title IX of the Educational Amendments of 1972

"No person shall, on the basis of gender, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance."

4. Section 504 of the Rehabilitation Act of 1973

"No otherwise qualified persons with disabilities shall, solely by reason of their disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

5. Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Gender and Disability in Vocational Education Programs, 1979

As a result of the court ruling in Adams vs. Califano, state education agencies are required to develop methods of administration for assuring sub-recipient's compliance with Title VI, Title IX, and Section 504 of the Vocational Rehabilitation Act.

6. Americans with Disabilities Act Of 1990

This Act prohibits discrimination on the basis of disability in all services, programs, and activities of the public and private sector regardless of funding source.

Major State Nondiscrimination Legislation

1. Chapter 280.3 Uniform School Requirements - Iowa Code

Chapter 280.3 prohibits discrimination on the basis of race, color, creed, sex, marital status and national origin in educational programs provided by the public schools of Iowa. It covers all components of the educational program.

2. Chapter 256.11 - Iowa Code

Chapter 256.11 requires that schools and school districts use a multicultural, gender-fair approach. It requires that the educational program be taught from a multicultural, gender-fair approach. Further direction for ensuring multicultural, gender fair approaches to the educational program are provided in Chapter 12 of the Iowa Administrative Code.

3. Chapter 216.9 Civil Rights Commission - Iowa Code

Chapter 216.9 prohibits discrimination on the basis of sex, race, color, creed, national origin, religion, disability, sexual orientation, and gender identity in programs, and activities offered by any educational agency in the state of Iowa. It includes admission and recruiting, intramural and interscholastic athletics, and all educational programs in pre-schools, elementary schools, secondary schools, community colleges, area education agencies, and colleges/universities. This legislation gives the Iowa Civil Rights Commission jurisdiction over educational programs.

4. Chapter 216.6 Civil Rights Commission- Iowa Code

Chapter 216.6 prohibits discrimination on the basis of age, sex, race, color, creed, national origin, religion, disability, sexual orientation, and gender identity in the employment policies and practices of any educational agency in the state of Iowa.

5. Chapter 280.4 Uniform School Requirements - Iowa Code

This section of the code requires that language assistance be provided for students whose primary language is one other than English. Chapter 60 of the Iowa Administrative Code sets the standards for these programs.

6. Chapter 280.12 Subsection 2 Iowa Code

Chapter 280.12 was amended during the 2007 legislative session by Senate File 61 to require policies, preventive activities and reporting related to bullying, harassment and hazing in Iowa schools. It includes bullying, harassing and hazing on the basis of race, national origin, color, language, gender, sex, sexual orientation, gender identity, marital status, familial status, physical and mental ability or disability, age, religion, creed, physical attributes, ancestry, socioeconomic status, political party preference and political beliefs.

7. Section 19.B11 - Iowa Code

This legislation requires non-discrimination in employment on the basis of race, creed, color, religion, national origin, sex, age, and physical and mental disability in school districts, area education agencies and community colleges. It also requires those agencies to adopt affirmative action plans that implement affirmative strategies to recruit and employ persons from groups that are underrepresented in their current employee pool. Chapter 95 of the Iowa Administrative Code contains rules for affirmative employment strategies in the recruitment, appointment, assignment and advancement of personnel.

8. Section 729A.1 Iowa Code

This chapter prohibits hate crimes against persons within the state of Iowa which includes violence or intimidation by threat of violence, committed against their persons or property because of their race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, or disability.

9. Section 282.12 Iowa Code

Allows school districts with school desegregation/diversity plans to deny open enrollment requests which may adversely affect the implementation of the diversity/desegregation plan. Details are specified in Chapter 17 of the Iowa Administrative Code.

Iowa Administrative Code

1. Chapter 12

Chapter 12 defines and sets the standards for multicultural, gender-fair programs. Chapter 12 also speaks to equity issues in relation to school integration, data collection and analysis, discipline, comprehensive school improvement, staff development, standards and benchmarks, curriculum infusion, talented and gifted programs, special education programs, and reporting on student achievement. The Department of Education is the monitoring and compliance agency for maintenance of minimum school standards. The Department also has technical assistance responsibilities.

2. Chapter 17.6 & 17.14

Provides the details for the interaction between open enrollment and court ordered desegregation plans or voluntary diversity plans. It spells out the requirements for voluntary diversity plans and when school districts are able to deny open enrollment requests because they may have an adverse impact on a diversity plan.

3. Chapter 60

Provides procedures for identifying English language learners, and highlights the responsibilities of school districts when an English language learner is enrolled.

4. Chapter 95 of the Iowa Administrative Code

These rules provide the details regarding the process for ensuring equal employment opportunity and the required components of Employment Affirmative Action Plans required of school districts, area education agencies, community colleges, and universities.

History of Education Equity Monitoring

1. Title VI of Civil Rights Act of 1964

Title VI requires that state education agencies, which distribute federal financial assistance to local education agencies, must give reasonable assurance that the sub-recipients of this assistance are complying with Title VI. State education agencies are required to develop "Methods of Administration," which reasonably assure that sub-recipients are in compliance, and that any non-compliance will be corrected.

2. Policy and Guidelines on Nondiscrimination in Iowa Schools, 1971

These guidelines defined racial isolation in Iowa schools and set the criteria for racial integration. In 1972, the State Board of Public Instruction requested integration plans from school districts and established an annual monitoring process. This integration monitoring continued through 1991 when it was consolidated into the Educational Equity Review Process.

3. Adams vs. Califano, 1973

The United States Office for Civil Rights was sued for not enforcing the Title VI requirement that state education agencies have a "Method of Administration" in place. The suit was directly related to vocational education programs. As a result of this litigation, the Department was directed to implement compliance checks in vocational/occupational education programs through desk audits, on-site reviews, and the issuance of guidelines explaining the application of Title VI regulations to vocational education.

4. Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Gender and Disability in Vocational Education Programs, 1979

As a result of the court ruling in Adams vs. Califano, state education agencies are required to develop methods of administration for assuring sub-recipients' compliance with Title VI, Title IX and Section 504 of the Rehabilitation Act. These methods of administration are to include:

- State policy reviews
- Desk audits of sub-recipient district's enrollment and staffing data as well as other equity data
- On-site reviews of local education agencies to assess their degree of compliance
- Technical assistance on equity issues
- Biennial program reports to the United States Office for Civil Rights

5. Comprehensive Civil Rights Monitoring Process, 1985

The State Board of Education made the decision to broaden the "Methods of Administration" review process to cover the entire educational program in 1985. This decision was made because federal and state civil rights laws cover the entire educational program. Since state agency staff persons were already being mobilized to review equity concerns, it did not make sense to look solely at vocational programs and ignore other

areas of the school program. This decision was consistent with recommendations made by the Iowa Advisory Committee on Educational Equity and the First in the Nation in Education (F.I.N.E.) Report of the Iowa Legislative Task Force on Education. Although the reviews are comprehensive, strong emphasis continues to be placed on equity in vocational education programs.

6. Educational Equity Review, 1991

The race equity review process and the methods of administration monitoring programs were administered separately from 1982-1991. Based upon recommendations of the Iowa Educational Equity Advisory Committee and concerns raised by educational agencies about the duplication of effort, these two monitoring processes were consolidated into the educational equity review process. This process incorporates all of the components of both of the former processes. The desk audit analyzes data previously collected by the state, which may indicate possible compliance problems.

7. School Improvement and the Educational Equity Review, 2002

Prior to 2002, the Educational Equity Reviews were conducted separately from the K-12 School Improvement/Accreditation Visits. Budget cuts over time have led to the consolidation of the two processes. The blending of these two processes should be as seamless as possible for the district, while at the same time maintaining the state's responsibility for ensuring that educational agencies are adhering to civil rights and equity legislation.

Educational Equity Review Process

1. Selection Criteria

There are several criteria used to determine who will have an equity review each year. The universe from which school districts are selected for equity reviews includes all the school districts that are scheduled to have a school improvement/accreditation visit in a given year. The criteria used to select districts from that universe include: (1) A review of course and program enrollment data in career and technical programs disaggregated on the basis of gender, disability and racial/ethnic background; (2) Changing demographics within the boundaries of an educational agency; (3) Complaints received from parents, students, staff, applicants for employment or community representatives and referrals from Department of Education staff or other state or regional agencies; and (4) The time elapsed since the district's last equity review.

2. Notification of On-site Review

The notification of the Equity Visit is done in concert with the notification of the School Improvement/Accreditation visit to the educational agency. During the month of May, each agency selected to receive an on-site review during the following school year will be notified by letter as to the date of the review, and the identity of the review team leader.

3. Orientation

In September and October of each year there will be orientation sessions presented for educational agencies having school improvement visits with a focus on equity. Participants will receive:

- Materials to be reviewed (both School Improvement & Equity)
- Persons to be interviewed (both School Improvement & Equity)
- Sample Site Visit Schedule (Site Visit Schedule Template – 3 Day With Equity)
- School Improvement Visit Protocol Document
- Equity Review On-Site Review Manual
- Equity Data Table

4. Duration of Site Visits

The on-site reviews may be 3-5 days in length. This will vary with the size of the agency being reviewed.

5. Members of the Review Team

The comprehensive on-site review team will have 6-15 members, including 3-6 equity team members. The number of team members will vary with the size of the educational agency being reviewed.

6. Specific Materials Reviewed by Team Members

In addition to the documents required by the Comprehensive School Improvement Site Visit, refer to the Equity Related Documents: Document Review Checklist for 2013-2014 for submission methods. Timeline for submission is no later than two weeks prior to the beginning of the visit. The following materials will be reviewed by members of the equity review team:

- Document Review Checklist
- Equity Related Documents: Document Review Checklist for 2013-2014
- Completed 2013-2014 Educational Equity Review Data Table
- EdInsight Equity Reports

7. Persons to be Interviewed

Equity-related questions will either be integrated within the school improvement interview groups or asked through focused interviews. In addition to the interview groups required for the Comprehensive School Improvement Site Visit (see List of Required On-Site Interview Groups 2013-2014 document), the following individuals/groups will be interviewed separately by the equity team leader (see Site Visit Schedule Template – 3 Day With Equity):

- Equity Coordinator(s)
- Middle and High School Counselors
- English As a Second Language Teacher(s)

- Athletic Director, Activities Coordinator, Coaches, and Physical Education Teachers
- Employment, Personnel and Human Resource Coordinator
- Physical Facilities/Buildings & Grounds Staff

8. Building Accessibility Tour

- Restrooms
- Central office (including board rooms)
- Whirlpools
- Career and technical facilities
- Lab areas, including Computer labs
- ICN rooms
- Gymnasium
- Auditorium
- Media Center
- Cafeteria
- Any other specialized facility within the district

Post-Review Activities

1. Letter of Findings From On-Site Review

Agencies will be notified of the results of the review within approximately sixty days. The equity letter of findings will include areas of strength and observations, recommendations for improvement and any areas of noncompliance. The agency will be asked to respond to the areas of noncompliance by submitting a voluntary compliance plan. Letters of findings are submitted to the U.S. Department of Education Office for Civil Rights with the Iowa Department of Education's Biennial Report.

2. Voluntary Compliance Plan

After receiving the equity letter of findings the school district has sixty calendar days to submit a *voluntary compliance plan* (VCP) to the Department of Education (DE). The VCP will include the statement of noncompliance, district action plan to remedy each of the areas of noncompliance, the evidence of correction that will be submitted, the staff person(s) responsible for each action, and a reasonable projected timeline for completing the action. Implementation of a remedy should be prompt, but reasonable in light of its difficulty. If a remedy cannot be implemented for more than a year, the VCP should describe an interim plan for accommodating students while the remedy is pending. A sample plan format is provided in Appendix A in the equity letter of finding. All plans must be signed by the superintendent or chief administrative officer. Department staff will review the VCP and contact the district if revisions are needed. The district will receive written approval when the final plan is accepted. Approved VCPs are submitted as part of the Iowa Department of Education's Biennial Report to the U.S. Department of Education Office for Civil Rights. Occasionally, the Office for Civil Rights requires further revisions of VCPs even after the plan had been approved by Department staff and/or requires submission of supplemental information even after the equity file has been closed. In this

case, DE staff will contact the district to make required revisions or provided supplemental information.

3. Appeal Process

Agencies may appeal areas of non-compliance by submitting a written statement to the State Director within thirty calendar days of receipt of the letter findings. The appeal should specifically detail the area of findings being challenged and include documentation invalidating the finding by the team. The State Director will appoint a panel to be chaired by the Deputy Administrator of the Division of Learning and Results. The result may be either a change in the report, or an affirmation of the original report, in whole or in part, within fourteen calendar days.

The agency may indicate a desire to continue the appeal in writing to the Administrator of the Division of Learning and Results within fourteen calendar days. The Administrator will make a decision and transmit the decision to the agency in writing within fourteen calendar days.

4. Monitoring and Follow-up Visit

The equity team leader is responsible for monitoring equity visit non-compliances. If the VCP is not received at the DE within sixty calendar days of the equity letter of findings being sent to the school district, the equity consultant notifies the district. During the second semester of the year following the on-site visit, the equity team leader will return to the district to monitor progress toward the implementation of the VCP. During the on-site follow up visit the equity consultant will determine if all non-compliances have been corrected.

The procedure for continued monitoring after the initial follow-up visit by the team leader includes an email to the district outlining the components of the VCP that have been completed. If all the components of the plan have been completed, the district will receive an email notifying them that the equity review file is being closed by the DE. If more time is needed to implement one or more compliance items, a new short-term timeline may be arranged. DE staff will continue to monitor all the unfinished components until they are satisfactorily implemented. The date the equity review file is closed is noted in the Iowa Department of Education's Biennial Report to the U.S. Department of Education Office for Civil Rights. The Office for Civil Rights may request supplementary information from the district any time during the process and occasionally after the file has been closed at the DE.

Consequences of Continued Non-Compliance

In the event a district does not submit a voluntary compliance plan, or does not show good faith effort to complete its voluntary compliance plan, the State Director, on behalf of the State Board, will take one of following actions:

- Notify the United States Department of Education Office for Civil Rights (federal law)
- Notify the Iowa Civil Rights Commission or the Attorney General's Office (state law except Chapter 256)
- Inform the school accreditation process