

School Leaders of Iowa

October 2002

Bureau of Administration and School Improvement Services Iowa Department of Education

(This document is also available on the DE web site.)

<http://www.state.ia.us/educate/ecese/asis/index.html>

1. **New School Improvement Consultant.** The Department is pleased to announce that Tom Cooley will serve as the School Improvement Consultant liaison for AEA 13 and AEA 14. He brings to his new role recent experience as a high school principal and practical knowledge of the comprehensive school improvement plan (CSIP), the annual progress report (APR), career and technical (vocational) programming, professional development, and curriculum.
Contact: Tom Cooley, 515-242-5132, tom.cooley@ed.state.ia.us
2. **Nonpublic Transportation Reimbursement.** By now districts have received their reimbursement checks (with only a few exceptions) and an explanation for nonpublic transportation reimbursement for the second semester of the 2001-2002 school year. Several schools have called with the following questions: a) Why the claim reduction? and b) Can the district bill the parents or the nonpublic school for the claim reduction (in cases where the nonpublic transportation service was being provided on district-owned buses)?

Why the claim reduction?

The reduction was due to the application of the Governor's across-the-board budget reduction to the appropriation for this program. The original appropriation for last school year was set at \$8,150,000; however, after the 4.3% reduction the Department had \$7,799,550 to pay all claims for the school year. Unfortunately, the sum of all claims filed for the school year exceeded the \$7,799,550 available, and the Department could only reimburse **94.81% of the sum of claims for the year (sum of 1st & 2nd semester gross claims)**. If the district totals its gross claims (before any reductions), takes 94.81% of that amount, and subtracts the amount it received in reimbursement for the first semester, the balance should be close, if not exactly, the amount of the 2nd semester check the district just received. The Department has provided the formula along with the figures used for each of the three reimbursement types (i.e., parent, district, and contract) on the pay out sheet that came with the check.

Can the district bill the parents or the nonpublic school for the claim reduction?

Pursuant to Iowa Code (Chapter 285.1, paragraph 14), the answer is **NO**. Paragraph 14 begins by stating: "Resident pupils attending a nonpublic school located either within or without the school district of the pupil's residence shall be entitled to transportation on the same basis as provided for resident public school pupils under this section." Under paragraph 1 of 285.1, districts must either provide transportation directly or reimburse parents for all resident elementary students living more than two miles and for resident high school students living more than three miles from their designated school of attendance. This entitlement applies to resident nonpublic students as well. For nonpublic students, "school designated for attendance" is also defined in paragraph 14 of Chapter 285.1 as a nonpublic school designated by the parents of the nonpublic students. Note, however, to be eligible for reimbursement, the nonpublic school must be an accredited nonpublic school as outlined in Chapter 285.16 of the Code. Also, it is the resident public school district board of education that decides which transportation option(s) it wishes to use in providing nonpublic transportation services to resident nonpublic students. The options are these: a) transportation on district-owned buses, b) contracting for the service with another public school district or private

contractor, or c) by paying the statutory parent reimbursement. With option “a” the district does take the chance that their reimbursement could be reduced, as has happened this year, by a Governor-initiated or legislative appropriation reduction. **You should also be aware that a claim reduction appears highly probable again this school year since the appropriation for FY04 has been fixed at the same \$7,799,550 level as last year.**

Contact: Carol Greta, 515-281-5295, carol.greta@ed.state.ia.us

- Small Rural School Achievement Program (REAP) and Re-Allocation Opportunity for REAP Districts.** School districts eligible for REAP funding under the Small Rural School Achievement Program were notified of their eligibility status last spring. If a district wishes to check the Iowa school districts that have been determined as eligible by the U.S. Department of Education, it can go to the REAP web site at www.ed.gov/offices/OESE/reap.html where state-by-state listings of approved districts are posted. All districts in Iowa that have been approved for REAP funds under the Small Rural School Achievement Program (SRSA) are currently being notified by the U.S. Department of Education REAP Office. These districts are also receiving packets of information from the USDE with more details about the program and the payment of awards that come directly to the Iowa school districts from the Federal government.

A second opportunity exists for REAP eligible School districts in Iowa: A REAP eligible district will be able to spend the SRSA funds (if receiving an award) and/or choose to move or re-allocate funds from certain Title programs in to other Title programs. A district need only be identified as REAP eligible in order to re-allocate funds to different programs. **A REAP identified district is not required to have applied for the SRSA funds in order to re-allocate funds.** Each district can complete budget table forms indicating how it will be spending or moving funds.

Budget table forms for the districts that are eligible for REAP funds, whether they applied for the funds or not, are available on the Department’s web site. The budget table forms must be submitted to Mary Beth Schroeder Fracek at the Department. The original October 1 deadline has been extended and districts will need to submit the completed forms as soon as possible. These eligible districts should go to the Department web site at www.state.ia.us/educate and look under “New and Revised Content” or “No Child Left Behind” to locate the forms.

- For questions about the REAP program, please send an e-mail to REAP@ed.gov. The SRSA REAP program is administered by the U.S. Department of Education and not the Iowa Department of Education.
- For questions regarding the REAP Notification budget table forms, contact Mary Beth Schroeder Fracek, 515-281-3160. Marybeth.schroederfracek@ed.state.ia.us.

- Children Ready to Succeed in School: Kindergarten Teacher Perception Survey.** As a partial solution to gather comparable assessment data to get a sense of statewide progress on the impact of local and state efforts to better support young children and their families, the Department is asking all kindergarten teachers again this fall to complete a survey. The survey data will provide an indication of the proportion of students who seem to have the skills to take advantage of the schools environment. This is a survey of a teacher’s perceptions of the readiness of students in his/her class, not a test or assessment given to each child.

A packet of information, including copies of the coded survey for each kindergarten teacher, will be sent to each elementary school principal. The kindergarten readiness survey must be returned to the Department by October 8, 2002. Early childhood consultants at each AEA will be able to assist the district, if needed. Consultants’ names and phone numbers are listed on the back of the survey.

The Department will report the survey data to the Iowa Empowerment Board. If a district wished to capture the data as part of needs assessment requirements pursuant to 281—IAC Chapter 12, is must do so locally.

Contact: Penny Milburn, 515-727-0656, pmilburn@iastate.edu

- Write Women Back into History Contest.** The 19th Annual Write Women Back into History Contest is open to all students in grades 6-9. This year’s theme is **Women Pioneering the Future**. Entries must be postmarked by Friday, January 24, 2003. The Iowa Commission on the Status of Women, the Iowa Department of Education, and the State Historical Society of Iowa sponsor this contest.

Guidelines are now available online at <http://www.state.ia.us/educate/ecese/asis/equity/index.html> or <http://www.state.ia.us/dhr/sw/womhistory.html>
Contact: Lori SchraderBacher, 515/281-4470, 800/558-4427, or lori.schraderbacher@dhr.state.ia.us

- Open Enrollment Change.** The definition of “good cause” for a parent or guardian to file an open enrollment application after the January 1 deadline was NOT changed in the re-writing of the open enrollment law, Iowa Code § 282.18. The change was that the decision-maker as to whether good cause existed shifted from the resident district to the receiving district. Resident districts concerned about the application of this new provision to specific cases involving their students could “request that the Department review and take *appropriate action*.” In a handful of cases, this agency has conducted such a review and had instructed the resident district not to forward funding for the affected pupil(s) to the receiving district.

Based on concerns about due process, fair play, and the Department's authority to determine that withholding of state aid is an “appropriate action,” the Department is taking a second look at its agency rule that authorized it to instruct the resident districts to withhold funds from the receiving districts in these cases. Over the next few weeks, the Department will examine other possible resolutions or whether to change this rule to add safeguards if the solution is to continue to be the withholding of funds. The Department will communicate any changes in this policy. Until then, please continue to communicate concerns so that the Department may document any abuses of the law and if so, the magnitude. At a minimum, the agency will continue to counsel with districts as well as maintain its documentation of complaints.

REMINDER: The opportunity for a parent or guardian to file an open enrollment application for “good cause” is limited to filing from January 2 until “count day,” the Friday after the third Thursday in September. Any applications received after this year's count date, September 20, may **only** be approved by the receiving district with the approval of the resident district.
Contact: Carol Greta, 515-281-5295, carol.greta@ed.state.ia.us

- Interscholastic Athletic Eligibility Rule.** The State Board of Education will vote at its November 20 regular meeting whether to change the present “pass four courses” academic requirement for participation in interscholastic athletics. The Board has been studying this issue for the better part of a year. Most recently, members heard from a panel of local board members and administrators from four districts (Davenport, Newton, Ottumwa, and Waterloo) whose local policies cover a gamut of options and whose message was clear: “Let local boards determine local policy for their students.”

Last spring, the Department asked for input from all Iowa high schools, and over 130 responded. Here is that feedback:

Favoring state-wide 2.0 rule	12.5%
Favoring state-wise “pass all” rule	21.3%
Favoring slight or no change to rule	66.2%

- Nonpublic Schools Seeking Accreditation.** Nonpublic schools in Iowa that seek accreditation pursuant to 281—IAC Chapter 12 will have access to application documents that will be posted on the Department's web site in October. These documents include an application form, guidelines for nonpublic schools seeking accreditation, and a step-by-step process. Please recommend this resource to any persons who inquire about “how to become” an accredited nonpublic school.
Contact: Julie Melcher, 515-281-6293, julie.melcher@ed.state.ia.us

- Student Member on the State Board of Education.** One new law passed late last legislative session was a requirement that the State Board of Education now include a public high school student as a nonvoting member of that body. The first term for the nonvoting student member will be May 1, 2003 – April 30, 2004. The Department is developing agency rules and application forms, but because the State Board does not meet in October, the rules will not be adopted until late November. Application forms will be provided at that time.

Pertinent information follows:

- The application must be filled out and signed by the student; there will also be a consent form for the student's parent or guardian and an approval form for the district to complete.

- A district may make as many copies of the application form as needed, but note that there is a limit to the number of students who may apply from a district. If a district's grades 10–12 enrollment is less than 400, only one student may apply; 400–1199, two students may apply; and 1200 or more, three students may apply.
- The student must be a full-time, regularly enrolled student in a public high school, and must meet these additional requirements:
 - Have and maintain a GPA of at least 3.0 (4.0 scale) or 3.75 (5.0 scale),
 - Have resided in Iowa at least the past three years,
 - Have attended his/her present high school at least the past school year,
 - Demonstrate participation in extracurricular and community activities, and
 - Demonstrate an interest in serving on the board.

The State Board will meet at least nine times during the May-April term. Most meetings taking place in the Grimes State Office Building in Des Moines with one to three meetings in other locations throughout the State. The student must be given an excused absence from the district to attend these meetings. The law also requires that a parent or guardian accompany the student to these meetings unless the parent signs a written statement that the supervision is not, in the parent's opinion, necessary.

10. **Teacher Quality Legislation and Accredited Nonpublic Schools: Q & A.**

- Does the Teacher Quality Legislation apply to nonpublic schools?
Answer: The legislation applies on a very limited basis. It provides for a teacher who has successfully taught in an accredited nonpublic school to obtain a standard license after three years of teaching.
- Do the requirements for evaluator approval, mentoring, or induction apply to accredited nonpublic schools?
Answer: The requirements do not apply; however, nonpublic schools and administrators may voluntarily choose to meet the requirements as outlined in the legislation, which a number have indicated the desire to do.
- If a nonpublic school administrator completes the evaluator approval requirements may he/she receive the certification?
Answer: Yes.
- If a nonpublic school administrator completes the evaluator approval requirements may he/she receive the \$1000 stipend as provided in the legislation?
Answer: No, the administrator may not since he/she is not obligated by the legislation to enroll in the program.
- If a nonpublic school administrator completes the DDL training component of the evaluator approval program, may he/she receive the \$900 grant?
Answer: Yes, the \$900 is part of a grant from the Gates Foundation and the grant was written for both public and nonpublic administrators. For the accredited nonpublic school to receive the money, the administrator must complete all the requirements of the DDL program. These funds must be used for the purchase of hardware or software from an approved AEA coop-purchasing list.
- Is a nonpublic schoolteacher's licensure negatively impacted in any way by the Teacher Quality Legislation?
Answer: No. According to Iowa Code Chapter 272.33 nonpublic school administrators are not required to hold an evaluator license although most nonpublic school administrators do have an evaluator license. Teachers have been evaluated effectively throughout the years, and if a teacher wished to transition to the public sector, it was easily done. A teacher who has successfully taught in an accredited nonpublic school is able to achieve career teacher status in a public school after three years of teaching. The nonpublic school administrator will be able verify this.

Contact: Jeff Berger, 515-281-6719, jeff.berger@ed.state.ia.us

Legal Lessons

Contact for All Legal Lessons:

Contact: Carol Greta, 515-281-5295, carol.greta@ed.state.ia.us

11. **Full *Barker* Guidelines Do Not Apply to Grade Realignments.** At its September board meeting, the State Board of Education issued a decision (*In re Grade Realignment in Nodaway Valley*), 21 D.o.E. App. Dec. 99). The issue was whether a district must comply with the *Barker* guidelines when realigning or restructuring grade levels. The specific local board decision being challenged involved the decision to realign the two elementary buildings from being both K-5 buildings to having one a K-3 facility and the other a 4-5 building.

Reasoning that a grade realignment does not have the same impact on a district as does a building closure, the State Board ruled that a district does not have to comply with all seven *Barker* guidelines when undertaking a grade realignment. Rather, the district must comply with the following four procedural guidelines for decisions involving grade realignment:

1. Sufficient research, study, and planning should be carried out by the board and groups and individuals selected by the board. Such things as student enrollment statistics, transportation costs, financial gains and losses, program offerings, plant facilities, and staff assignment need to be considered.
2. The grade realignment proposal should be posted in a prominent place at the affected attendance center(s) and published in the agenda of an upcoming board meeting open to the public.
3. There should be an open and frank public discussion of the facts and issues involved.
4. The final decision must be made in an open, public meeting and a record made thereof.

The Nodaway Valley Board was found to be in compliance with the guidelines, and its decision was upheld.

Please note that the full *Barker* guidelines will continue to apply to building closing decisions.

Those seven guidelines are as follows:

1. The board shall establish a timeline in advance for carrying out the procedures involved in making the decision on the matter, focusing all aspects of the timeline upon the anticipated date that the board will make its final decision on the matter.
2. The board shall inform all aspects of the communities within its district that the matter is under consideration by the board.
3. The board shall seek public input in all study and planning steps involved in making the decision.
4. The board shall carry out sufficient research, study and planning, either directly or through groups and/or individuals selected by the board. The research, study, and planning shall include consideration of, among other things, student enrollment statistics, transportation costs, financial gains and losses, program offerings, plant facilities, and staff assignment.
5. The board shall ensure that there is open and frank public discussion of the facts and issues involved.
6. The board shall make a proper record of all steps taken in the making of the decision.
7. The board shall make its final decision in an open meeting with a proper record made thereof.

12. **Iowa Supreme Court Ruling.** On September 5, 2002, the Iowa Supreme Court issued a ruling that clears the way for the parents of three minor students to sue their school district for negligent hiring, retention, and supervision of a teacher who allegedly inappropriately touched the students. The full text of the case, *Doe, et al. v. Cedar Rapids Community School District*, may be found at <http://www.judicial.state.ia.us/supreme/opinions/20020905/01-0648.asp>.

Suffice it to say that the teacher has a “long history of allegations of misconduct related to his employment as a teacher for two school districts,” going as far back as the mid-1960s. At issue was not the teacher’s conduct. The issue was whether the district had immunity under Iowa Code section 670.4(3), which provides districts immunity from claims “based upon ... the exercise or performance or the failure to exercise or perform a discretionary function or duty....” Therefore, the question facing

the Supreme Court was whether the district's conduct in hiring, retaining, and supervising a particular teacher is immune from lawsuit.

The Court decided that the "administrative act of hiring, retaining, and supervising an individual teacher does not involve the careful balancing of competing interests, risks, and advantages. It is merely a choice made by a school district to offer or not offer a position of employment..." Therefore, the conclusion reached by the Supreme Court was that this district's actions "were nothing more than a product of ordinary, day-to-day operations." There is no immunity under the law for these operations.

This does not mean that the district ultimately loses. It just means that the lawsuit will proceed to trial where the issue of the teacher's conduct and the "what did the district know and when did it know it" issues will be litigated. However, this decision does mark a big change in how the tort immunity law had previously been decided.