



School Leader Update

Iowa Department of Education

SEPTEMBER 2006

Resources for Iowa School Leaders

SCHOOL IMPROVEMENT

Introduction to the Model Core Curriculum for Iowa's high schools

The DE is planning a series of ICN sessions to provide help for AEAs, district, and school staff apply the [Model Core Curriculum](#) for Iowa's high schools.

The introductory session will provide an in-depth look at the essential concepts and skill sets in literacy, mathematics, and science described in the Model Core Curriculum. The same content will be repeated in all four ICN sessions. The sessions are scheduled for the following dates and times:

Tuesday, September 19 (Origination Site: Lucas State Office Building)

8:30 to 10:30 a.m. **and** 2:00 to 4:00 p.m.

Wednesday, October 11 (Origination Site: Grimes State Office Building – 2nd Floor)

8:30 to 10:30 a.m. **and** 2:00 to 4:00 p.m.

This introductory session will be videotaped, and copies will be available from each AEA.

Additional sessions are being planned to assist high schools in integrating the Model Core Curriculum into current practice.

Contact Rita Martens at 515/281-3145 or rita.martens@iowa.gov for additional information.

Sexual violence prevention manual available

In their 2005 session, the Iowa legislature directed the Department of Education to provide schools with examples of age-appropriate materials and lists of resources that parents could use to teach their children to recognize and reject unwanted physical and verbal sexual advances. The new requirement also states that schools should provide such resources to parents at registration, include them in student handbooks, incorporate them into relevant curricula, and stress prevention of sexual harassment, abuse, and assault. A companion document to the anti-bullying manual that helps schools meet these requirements is now available at: <http://www.state.ia.us/educate/ecese/cfcs/sdfsc/resources.html>. For more information contact jane.todey@iowa.gov or 515/281-8514.

CSIP reminder

Schools and districts that completed a site visit during the 2004-05 or 2005-06 school year are required to revise their CSIPs according to Chapter 12 which states: *a school or school district shall submit a revised five-year Comprehensive School Improvement Plan by September 15th of the school year following the comprehensive site visit specified in Iowa Code section 256.11 which incorporates, when appropriate, areas of improvement noted by the school visitation team as described in subrule 12.8(4). Schools or school districts that completed a site visit during the past two years must certify their CSIPs by September 15, 2006 using the 2005-06 format, not the 2006-07 format.*

Public School Districts Only: Additional assurances resulting from legislative action will be added to the 2006-07 CSIP. Consequently, school districts desiring to update their 2006-07 CSIPs should use only the **update** button and refrain from **certifying** their CSIPs until later in the 2006-07 school year when these additional assurances are available. The state will not certify any 2006-07 CSIPs until these assurances have been added.

For assistance with the CSIP, contact Debbie Boring at 515/281-3198 or debbie.boring@iowa.gov.

Alternative education options

The Department recently sent letters to all superintendents clarifying access to alternative education (including but not limited to education for students at risk of school failure, students who have dropped out or are at risk of dropping out, etc.) by students with disabilities. This letter clarifies Department policy that students with disabilities must be allowed to participate in alternative schools, programs or activities, if such participation is required to provide those children with a free appropriate public education. The letter is also attached to this issue of School Leader Update and will be posted online at <http://www.state.ia.us/educate/>. For more information, contact Thomas Mayes at thomas.mayes@iowa.gov or 515/242-5614.

New application for charter schools

A revised application packet to become an Iowa charter school is now available at <http://www.state.ia.us/educate/ecese/asis/charter/index.html>

The new application has combined the two-step application (Planning and Status) into a one-step process. The timeline for application is as follows.

December 15, 2006 - Planning/Status Grant Application due to Department of Education

January 22, 2007 - Award Notification

Fall 2007 - Charter Opening Date

The combination grant will be in the amount of \$350,000. A maximum of two grants can be awarded in this amount. One application is pending approval. For more information, contact Lois Irwin at lois.irwin@iowa.gov or 515/281-8582.

Orientation for School Improvement visits

Schools and districts that are scheduled for a site visit in the 2006-2007 school year are strongly encouraged to attend (or schedule an ICN location for) one of the six ICN sessions listed below. To add a location to one of the sessions, please check availability and contact annette.mathieu@iowa.gov (email preferred) or by phone at 515/281-3170. Please include the Node number of the site location and the date and time of the session. Reservations to attend are not required.

Session Dates, Times, and Pre-Scheduled Locations

The dates and origination sites for the ICN sessions are as follows:

1. September 8, 9:00 a.m. to 10:30 a.m. – origination site is the Grimes Building
2. September 8, 1:00 p.m. to 2:30 p.m. – origination site is the Grimes Building
3. September 19, 10:30 a.m. to 12:00 p.m. – origination site is the Historical Building
4. September 19, 2:00 p.m. to 3:30 p.m. – origination site is the Historical Building
5. September 27, 9:00 a.m. to 10:30 a.m. – origination site is the Grimes Building
6. September 27, 3:00 p.m. to 4:30 p.m. – origination site is the Grimes Building

Pre-scheduled Locations can be viewed at <http://www.state.ia.us/educate/ecese/asis/csi/sv.html>.

Materials needed for the school improvement part of the training will be available on the Department of Education website at the following links:

Public School Districts:

Current Link: <http://www.state.ia.us/educate/ecese/asis/csi/svpub.html>

Future Link:

http://www.iowa.gov/educate/index.php?option=com_content&task=view&id=495&Itemid=542.

Accredited Nonpublic Schools:

Current Link: <http://www.state.ia.us/educate/ecese/asis/csi/svnp.html>

Future Link:

http://www.iowa.gov/educate/index.php?option=com_content&task=view&id=495&Itemid=542&limit=1&limitstart=1.

Orientation for School Improvement visits with an equity focus

Please note there is a separate orientation for those districts having a school improvement visit with a focus on equity. This session will be September 15 from 9:00-12:00 in local districts [origination site is the State

Library DSM (ICN 3)]. Districts scheduled for a visit with a focus on equity, should plan to attend this ICN session, which will include the information needed to prepare for both the school improvement and the equity component of the visit.

Materials needed for the equity portion of the training have been sent to districts. Please call 515/281-3170 or email annette.mathieu@iowa.gov for assistance.

QUALITY TEACHING

National Board Certification reminder

The deadline for eligible teachers to apply for National Board Certification is September 15, 2006. Please distribute the attached information to teachers as soon as possible. This information is also available on the DE's Web site at <http://www.state.ia.us/educate/ecece/nbc/documents.html>.

St. Ambrose University has been awarded a grant to develop and implement support services to National Board Certification candidates. Additional details will be available in the October School Leader Update. For information on the support program contact Maggie Woods at WoodsMargueriteK@sau.edu or 563/322-8556.

SCHOOL FUNDING AND GRANTS

Deadline for application for technology grants

Districts interested in applying for an innovative technology grant funded by the Iowa Learning Technology Commission must submit a concept paper by September 15. The paper should explain the focus of the project, how the project is innovative, and how student learning will be impacted by the effort, and be submitted electronically by the superintendent through the DE edinfo website. After the concept papers are evaluated, the ILTC will invite a number of district proposals to move to Part II of the application process, at which point those invited districts will be given the option to submit a full grant application by November 10, 2006. Final determination of ILTC grant award winners is scheduled on or around December 15, 2006.

Additional information is available at <http://homepage.mac.com/albodespanish/iltc/iltc.html> or the DE website at <http://www.state.ia.us/educate/grants.html>. Contact Jeff Berger at 515/281-3399 or jeff.berger@iowa.gov with questions.

LEGAL LESSONS

The contact for all Legal Lessons items is Carol Greta, carol.greta@iowa.gov or 515/281-8661.

Rule changes to take effect

1. Pupil Transportation (Chapter 43)

Effective September 20, the following are some of the changes to note from our rules on pupil transportation:

- Bus drivers will no longer have to have a TB test as part of their physical examination. (The school may still include such a requirement, but it will no longer be mandated by the DE's rules.)
- Some minor changes were made to rules about seating. Students are to have a minimum of 13 inches per student; adults are limited to two persons per 39-inch seat.
- The rules clarify that a pretrip inspection is required of each school bus prior to each trip, not just once daily. Also, a new posttrip inspection of the interior of the school bus shall be performed after each trip.
- A new rule requires that each school bus have a two-way communications system or cellular telephone for the driver to use with the school's base of operations for school transportation. A working cell phone is sufficient to satisfy this requirement. The intent of the new rule is to ensure that every driver has some reliable means to get in touch with the school in case of emergency.
- Finally, the DE has more options at its disposal now when asked to revoke a driver's authorization. Prior to July 1, the director's hearing officer was limited to two options: Revoke or not revoke. Now, the hearing officer may suspend the authorization for any period of time or may issue a reprimand or warning to the driver, in addition to the past options.
 - All of these changes were published in the August 16 Administrative Rules Bulletin, <http://www.legis.state.ia.us/Rules/Current/Bulletin/IAB060816.htm>. The above is just a summary; read the bulletin for the exact language or access the entire updated chapter of rules at <http://www.legis.state.ia.us/Rules/Current/iac/281iac/28143/28143.pdf>.

2. School Buses (Chapter 44)

To become effective November 15, but still in the formal rulemaking process, is a re-write of the rules that literally describe the “nuts and bolts” of how school buses are to be equipped. This is a very extensive rewrite and involved the bus manufacturers who do business with Iowa’s schools, as well as several transportation directors from Iowa schools. Rather than describe some of the over-70 changes to these rules here, interested persons may review them at <http://www.legis.state.ia.us/Rules/Current/Bulletin/IAB060607.htm>. (This is a link to the Administrative Rules Bulletin; the school bus rules start about a quarter of the way down the document.)

It is anticipated that the State Board of Education will adopt these rule changes at its September 14 meeting in Des Moines.

3. Open Enrollment (Chapter 17)

Finally, the State Board will be asked at its September 14 meeting to give notice of its intent to amend the open enrollment rules to reflect recent legislative changes to that law. The amendments will be published in the October 11 Administrative Rules Bulletin, available online on or after October 11 at <http://www.legis.state.ia.us/Rules/Current/Bulletin/>.

Public hearing on the rules will be held November 1 from 2:30 to 4:00 p.m. in the Grimes State Office Building (room 2SW). Many of the amendments are routine and designed to conform to minor legislation changes. Of primary interest to districts, however, is a new rule that spells out the details of how a resident district may appeal to the Director from an approval by a receiving district of a late-filed open enrollment request where the resident district questions whether “good cause” exists. The language of that proposed rule will be set out verbatim in the October 11 Administrative Rules Bulletin. The highlights are as follows:

- The board of the resident district must vote to file the appeal with the director.
- The appeal must be in writing, signed by board president, and state the following:
 - a. Name and grade level of affected student.
 - b. Name of receiving district.
 - c. Date of approval by school board of receiving district.
 - d. Brief statement why good cause does not exist, in opinion of resident district.
 - e. Attachments must include a copy of the disputed open enrollment request and a copy of the minutes of the resident district board meeting at which vote was taken to appeal.
- The written appeal must be filed with the DE (postmarked or faxed) within 15 days of notification to the resident district from the receiving district of the action by the board of the receiving district.
- Director or director's designee first attempts to mediate dispute.
- If mediation is unsuccessful, telephonic hearing is scheduled with both districts. At sole discretion of director or director's designee, an in-person hearing may be held.
- Director shall issue a written decision within 10 days of hearing.
- Within 5 days of written decision above, the dissatisfied board may file a chapter 290 appeal to the State Board.

Election-time reminders

With school board elections just around the corner and other statewide races heating up, here is a summary of issues that are likely to come up:

1. Public resources
Public moneys cannot be expended for political purposes (Iowa Code section 56.12A) and public resources may not be used for political purposes. This means public email addresses may not be used to endorse a candidate or issue. Whether a district employee may use their public email to remind colleagues of election day or just to get the vote out (without advocating) is up to local district rules.
2. Candidate forum held in public school building
This is fine IF all candidates have been invited, at least two participate, and the forum is not set up to benefit one candidate over the others. If the forum complies with these conditions, campaign materials may even be distributed at the forum.
3. Candidates speaking just to students in classrooms
Candidates may “come in and speak about their campaigns, their positions and other issues so long as the candidates do not use words of ‘express advocacy’... such as ‘vote for,’ ‘elect,’ ‘defeat,’ etc.”
4. Posting campaign literature in classrooms

When such materials are posted as part of the curriculum on government, elections and campaigning, this is allowable IF literature from all major candidates in the election is posted upon request.

Confidentiality of records of CPI (home schooled) students

A new provision was added this year to the law that governs CPI students. NEW Iowa Code section 299A.11 states:

Notwithstanding any provision of law or rule to the contrary, personal information in records regarding a child receiving competent private instruction pursuant to this chapter, which are maintained, created, collected, or assembled by or for a state agency, shall be kept confidential in the same manner as personal information in student records maintained, created, collected, or assembled by or for a school corporation or educational institution in accordance with section 22.7, subsection 1.

[Section 22.7(1) requires that personal information regarding students be kept confidential as an exception to the Open Records Law.] New section 299A.11 gives CPI students and their families the same state privacy protection as regularly enrolled students and their families.

Some CPI families are providing their resident school districts a courtesy notice to remind the districts that personal information about their children must be kept confidential even if the district receives no "opt out" form. The courtesy notice is quite correct. Under the new state law, all personal information of CPI students who are not dually enrolled and/or enrolled in a Home School Assistance Program (HSAP) is to be protected.

State law covers all CPI students because a Form A (Report of CPI) must be filed on behalf of all such students of compulsory attendance age. Form A must be maintained by the resident district, which makes every Form A a public document. (The records a district may have regarding a child who receives CPI might also include more specific records for those who are dually enrolled and/or enrolled in a Home School Assistance Program if a HSAP is provided by the district.) Under state law (Office of Attorney General Opinion No. 80-6-8), personal information about a student excludes only the student's name and address. Therefore, if a request is made for copies of the Form As in the care of a district, the request must be granted with the personal information (everything except student's name and address) having been first expunged either with white-out or by blackening the personal information. If such a request is made, districts are also urged to first notify the affected student's family and to delay for a few weeks complying with the request; this will give a family a chance to try to challenge the request in court. Any such court challenge will not be against the DISTRICT but will be against the party requesting the information. Nothing in the law requires a district to comply immediately with a request for student information, especially if the request comes from a party with whom the district is not familiar.

On the other hand, the provisions of FERPA (the federal Family Educational Rights and Privacy Act) cover only those CPI students who are dually enrolled with the district or who are enrolled in the district's HSAP (if the district operates an assistance program). Under FERPA, non-confidential information ("directory information") must be designated by each district and may include a student's name, address, telephone listing, email address, date of birth, grade level, and participation in activities and sports, to name the most pertinent ones. And the annual FERPA notice and the separate notice about military recruiters must be sent to the parents/guardians of all regularly enrolled students and those CPI students who are dually enrolled and/or enrolled in a HSAP.

If a district receives an "opt out" form on behalf of a CPI student who is dually enrolled or enrolled in a HSAP, the district is accustomed to protecting that student's personal information. The courtesy notice that a district might get is a valid reminder that personal information about a CPI child must be kept confidential even if the district receives no "opt out" form.

Speaking of records ...

Reminder: A school's student records are the property of the school. They are owned by the school, not the student and not the student's parent/guardian. When a student transfers to School B from School A, School A sends a COPY ONLY of the student's records to School B. School A retains the originals.

Recent disciplinary appeal case

At its July 27 meeting, the State Board approved an appeal decision regarding a student who had not only brought two BB pistols to school, but also playfully shot at his friends with one of the pistols during class. The district administration recommended expulsion for the remainder of last school year [the incident occurred in very late March] and for the first trimester of the 2006-07 school year. The local board modified the recommendation and suspended the student for the same time period. The student appealed; the State Board upheld the local board's decision. [Summary and a link to the full decision appear at: http://www.state.ia.us/educate/dc/ad/doc/McNees_expulsion_decision.pdf.]

Lessons to note:

1. The State Board cannot impose a harsher punishment than was imposed by the local school board. Even if the State Board members had believed that the administration's recommendation was the wiser choice, they have no authority to order it. The State Board has authority merely to determine if the local board's decision was "reasonable and not contrary to the best interests of education in general."
2. This was not a case that involved the gun-free schools act (Iowa Code section 280.21B). The BB pistol in question was not a "firearm" per the gun-free schools act because the projectile (the BB) was expelled from the gun by way of a spring-loaded mechanism and not by the action of an explosive. Therefore, there was no mandatory expulsion of one year.
3. The difference between a suspension and an expulsion is very important. Expelling a student means the student is no longer a student of the district until such time, if ever, the student is re-enrolled. A suspended student remains a student of the district while his/her attendance is under suspension. Imagine this situation: Carol, a regular education student, violates a behavior rule of her district on May 15. If she is expelled for the rest of that school year and all of the following first semester, she is no longer a student of the district, and the district cannot include her in its certified enrollment that fall. On the other hand, if she is suspended by the local board until the start of second semester, she is still "on the rolls" of the district and may be counted.

An exception may apply to a student with an IEP. If expelled (pursuant to manifestation hearing, of course), a student with an IEP still must receive services from the district. So if the district continues to incur costs for the instructional program for the student, either by providing the instructional program directly or by being obligated to pay another district to do so, the district may count the student for certified enrollment.

Conduct violations that occur at or near the end of a school year

When a student (non-senior) violates a rule of school conduct toward the end of the school year, the temptation is to suspend for the balance of the school year (one to five or so days, for example) and to impose no further penalty. Giving in to this temptation can come back to haunt a school. For example:

1. Student at School A brings a knife to school; there are six days left of school. School A suspends the student for the balance of the school year. Period. Bringing a knife to school is an expellable offense, but School A decides not to do so. Over the summer, the student's family moves to School B. Because the student had not been expelled and because his period of suspension is over, School B must enroll him. [This is not a comment on whether enrollment is the right thing to do...it's merely an observation that School B has no discretion in this case.]
2. Student at School A assaulted a fellow student at school on the last day of school. School A decided to suspend him for the rest of the year without further consequences for the 2006-07 school year. Now the victim of the assault is unhappy that the student who assaulted him will be starting school on the first day with all other students as if nothing happened.

When a non-senior misbehaves at or near the end of a school year, don't let the punishment be dictated solely by the number of days left of the current school year. Take a look at the nature of the offense, the student's prior record, and act accordingly.

Bidding procedures – CORRECTION on effective date

Our item last month about competitive bidding requirements and HF 2713 included an incorrect effective date. THE CORRECT effective date of the legislation is January 1, 2007. The substantive information was correct, so we'll repeat that. Just bear in mind that this is effective January 1, 2007.

ALL Districts	Projects with an estimated cost of over \$100,000	Follow all competitive bidding procedures
Districts with district-wide population of less than 50,000	Projects with estimated cost of \$36,000 and under	No state requirements...check local board policies
Districts with district-wide population of 50,000 or more	Projects with estimated cost of \$51,000 and under	No state requirements...check local board policies
Districts with district-wide population of less than 50,000	Projects with estimated cost of more than \$36,000 but not in excess of \$100,000	<p>Follow semi-formal quotation process outlined in new Iowa Code chapter 38:</p> <ol style="list-style-type: none">1. Make good faith effort to obtain quotes from at least 2 contractors regularly engaged in relevant work.2. Plans and specs must still be prepared by an architect or engineer3. Provide contractors with opportunity to inspect work site4. Contractor must provide price for labor, materials, equipment, supplies5. Designate time, place, manner for filing quotes6. Record approved quotes in meeting minutes7. Award contract to lowest responsive, responsible bidder or reject all quotes
Districts with district-wide population of 50,000 or more	Projects with estimated cost of more than \$51,000 but not in excess of \$100,000	Follow quotation process set out in part immediately above

New contact at DE for appeals procedures

Rhoda Harris is the new administrative assistant in the Office of the Director handling non-special education appeals. Questions about appeals filed with the DE *that do not involve special education* may contact Rhoda at rhoda.harris@iowa.gov or 515/281-5295. [The contact regarding special education appeals is Julie Carmer, julie.carmer@iowa.gov or 515/281-7144.]

Level I investigator training

Administrators, please let your chapter 102 Level I investigators know that this year's training will take place Monday, October 2, from 8 a.m. – noon. As in the past, the training will originate at Heartland AEA's main office in Johnston, and will be narrowcast live over the ICN. A Level I investigator should contact his/her own AEA to find out the closest ICN site.

Implementation of Constitution Day on September 17

United States Constitution Day is September 17 of each year. Last year, Congress enacted legislation requiring all public schools to set aside one day on or near September 17 (which is a Sunday this year) to teach all students about the U.S. Constitution and about citizenship.

Iowa districts are already in compliance with the spirit and letter of this law as to secondary students taking U.S. government. [Iowa Code section 256.11(5)(b) requires that the government course cover the federal Constitution.] Many, if not most, districts probably already incorporate such instruction at the elementary level.

The U.S. Department of Education's web site acknowledges that curriculum and course decisions fall outside federal authority. This agency has no information about whether or how the federal government plans to enforce the law. The intent behind the law is a good one. There is a web site with more information about this, including material useful in planning Constitution Day activities, at:
<http://www.ed.gov/legislation/FedRegister/other/2005-2/052405b.html>.

TB testing not required

One final mention that there is no longer any such requirement for school employees in Chapter 12 and, as mentioned in the item about Pupil Transportation rules, effective September 20, a TB test will no longer be required for school bus drivers either.

School fee reminders

Please refer to the item regarding school fees in last month's School Leaders Update and/or visit the FAQs at <https://www.edinfo.state.ia.us/web/faqs.asp?f=tf00000>. Also note that districts can do themselves a huge favor by ceasing to use the term "registration fees." There is no such (legal) thing. There are textbook rental fees, supplies fees, transportation fees, etc. that are generally payable at registration, but there is no fee for the act of registering a pupil.

Also, an updated version of the fee waiver form is not available. However, the old form is still valid with one exception: remove the reference to SSI as an eligibility factor. Nothing else has changed. SSI was removed from the rule a couple of years ago.

Gift law violation

An alert school administrator from NE Iowa called with a concern about a local athletic clothing and equipment retailer that was sending discount cards to this administrator's coaches. The retailer was hoping to get business from the school district, which makes the retailer a "restricted donor." The discount cards were not made available to members of the general public, but were targeted to coaches. Accordingly, in this situation, it is a violation of Iowa Code chapter 68B for a public employee to accept and use a discount card from anyone hoping to do business with the employer – that is, with the district. When in doubt about whether a particular scenario violates the gift law, always consult the district's attorney. The next best step to take is to take a look at the web site of the Iowa Ethics and Campaign Disclosure Board,
<http://www.state.ia.us/government/iecdb/ethics/localethics.htm>.

NIMS – Not Just Another Acronym

NIMS is the National Incident Management System, and is a key player in the emergency management context. The federal DHS (Department of Homeland Security) requires that all schools and school districts be "NIMS compliant." DE staff is meeting with the Iowa Homeland Security Emergency Management team to find out how schools and school districts comply. Look for more information in this space next month.

BOARD OF EDUCATIONAL EXAMINERS

The contact for all BOEE items is Dr. George Maurer at 515/281-5849 or george.maurer@iowa.gov.

Licensure reminders

The BOEE encourages all administrators to ensure that all district staff is properly licensed. License violations are considered a serious offense, and thus a fee is assessed to anyone who violates the Code of Iowa 272.7 Validity of License.

Teachers coming from out-of-state who have not submitted their application materials should submit as much of the application as they have available. Even if the application is incomplete, this will start the licensure

process and will eliminate the fee being assessed. Also, any licensed teachers who are teaching outside of their subject area must have (or be in the process of obtaining) a Class B or C license. The applications may be downloaded from the Board of Educational Examiners' website at www.boee.iowa.gov

BOEE launches new website

The Iowa Board of Educational Examiners has a new website at www.boee.iowa.gov. The website has been revised to add new features, including the ability to search for any Iowa licensed individual.

The site also allows practitioners to keep their demographic and contact information updated so they can receive important information and reminders from the BOEE. When current email addresses are available, the Board sends renewal reminders one year prior to the expiration date of the license and another reminder one month prior to the expiration date.

Renewal application background checks

The Board of Educational Examiners is required by law to review the sex offender registry, the central registry for child abuse information, and the dependent adult abuse records for every renewal application. At this time, no additional fee will be charged to the applicant for this background check. Please be aware that this process may extend the renewal processing time if the background check information must be reviewed.

TRANSPORTATION

Iowa to get hybrid buses

Iowa is one of just 11 states in the nation that will soon be taking delivery of two hybrid electric school buses to be tested by Nevada and Sigourney later this fall. Only 19 buses nationwide are involved in this test project, sponsored by Advanced Energy Consortium from North Carolina. The hybrid vehicles are said to deliver up to a 40% fuel savings along with reduced emissions.

CALENDAR

Sept. 15	Deadline to submit concept paper for Innovative Technology Grant
Sept. 15	Deadline to apply for National Board Certification
Sept. 17-19	Iowa Behavioral Alliance Conference , Ames
Sept. 19	ICN information session on Model Core Curriculum (2 times available)
Sept. 29	Deadline to submit applications for US Senate Youth Program
Oct. 11	ICN information session on Model Core Curriculum (repeat from September)

SCHOOL LEADER UPDATE is produced monthly by the Iowa Department of Education for school leaders of Iowa. Comments and submissions should be sent to Kathi Slaughter, 515/281-5651, kathi.slaughter@iowa.gov.



THOMAS J. VILSACK, GOVERNOR
SALLY J. PEDERSON, LT. GOVERNOR

STATE OF IOWA

DEPARTMENT OF EDUCATION
JUDY A. JEFFREY, DIRECTOR

TO: Lana Michelson, Chief
Bureau of Children, Family & Community Services
FR: Thomas A. Mayes, Legal Consultant
Bureau of Children, Family & Community Services
DA: August 28, 2006
RE: Students with Disabilities & Alternative Education

A recent site visit by the Department raised concerns about access to alternative education (including but not limited to education for students at risk of school failure, students who have dropped out or are at risk of dropping out, etc.) by students with disabilities. This document addresses this concern.

Question 1: Is it legal for alternative schools, programs, or services to categorically exclude children who are eligible for special education under the Individuals with Disabilities Education Act (IDEA, 20 U.S.C. §§ 1401 *et seq.*) or reasonable accommodations under Section 504 of the Rehabilitation Act (29 U.S.C. § 794)?

Answer 1: No. A school district, a consortium of districts, or a community college or other entity that provides alternative education in cooperation with or on behalf of a school district or a consortium of districts may not have a policy or practice, either written or unwritten, of excluding children with disabilities from alternative schools, programs, or services.

Question 2: Why would such a policy be unlawful?

Answer 2: Excluding children with disabilities from such programs would certainly violate the IDEA, as well as Section 504 and the Iowa Civil Rights Act (Iowa Code ch. 216). Depending on the nature of the educational entity and the nature of the exclusion, additional sources of liability could include the Americans with Disabilities Act (ADA) (42 U.S.C. §§ 12101 *et seq.*) and provisions of the United States and Iowa Constitutions.

Question 3: When are students with disabilities entitled to alternative schools, programs, or services?

Answer 3: A student who is eligible for special education under the IDEA is entitled to participate in alternative schools, programs, or services if such participation is necessary for the student to receive a “free appropriate public education” (FAPE). An eligible child’s IEP team determines what is FAPE for that child, and placement decisions for that child must be based on that determination. Additionally, students who are otherwise qualified to participate in alternative schools, programs, or services (i.e., school-age

students who need alternative education) may not be excluded from such participation solely on the basis of a disability. To do so would violate state and federal civil rights laws.

Question 4: What specific policies or practices are unlawful?

Answer 4: The following policies or practices would be legally impermissible: (1) not permitting students who participate in special education to participate in alternative education schools, programs, or services; (2) requiring students participating in special education to “sign out” of or be exited from special education before participating in alternative education; (3) not permitting students who participate in alternative education to participate in special education; (4) requiring students participating in alternative education to “sign out” of or be exited from alternative education before participating in special education; and (5) any other similar practice or policy.

Question 5: Don’t Iowa’s education finance laws require the separation of special education and alternative education?

Answer 5: No. This is a common misunderstanding. Although students who participate in special education are not eligible for supplementary weighting for alternative schools and at-risk programs (*see* Iowa Code §§ 256B.9, 257.11(7)), this particular funding mechanism does not provide a legally sufficient justification to categorically exclude children with disabilities from these programs. These Code sections deal with funding, not access.

Furthermore, these state statutes must yield to contrary federal law. If a child with a disability needs access to alternative education to receive FAPE, then the IDEA requires such access. Notably, the IDEA provides Iowa may not have any funding mechanism resulting in placement decisions being made based on funding streams or sources, rather than “the unique needs of the child as described in the child’s IEP.” 20 U.S.C. § 1412(a)(5)(B).

Question 6: Are students with disabilities who participate in alternative education entitled to special education and/or educational supports while in alternative education?

Answer 6: Yes. Students with disabilities who participate in alternative education are entitled to such specially designed instruction and related services that are necessary to provide FAPE (under the IDEA) or to provide equitable access (under Section 504). Those supports are to be identified by a student’s IEP team or “504 team,” and are to be provided according to the IEP or 504 Plan. The student’s team should make itself aware of the nature of the alternative education at issue and any supports necessary for the student. If an educator believes insufficient support is being provided or implemented to allow the student to receive FAPE in or equitable access to alternative education, that educator should call this matter to the attention of the student’s IEP team or “504 team.”