

School Leaders of Iowa April 2003

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>

"The improvement of understanding is for two ends: first, our own increase of knowledge; secondly, to enable us to deliver that knowledge to others."

-- John Locke

1. **Annual Progress Report (APR) and Annual Yearly Progress (AYP).** The Department has received many inquiries about when the "new" APR requirement checklist will be distributed and when/how school districts will report for AYP accountability. A "new" APR checklist cannot be distributed at this time since APR reporting requirements for the 2002-03 school year will be impacted by USDE approval of Iowa's annual yearly progress (AYP) proposal. Generally, the requirements impacted for APR purposes involve "goals" and reporting of goal progress. In addition, how school districts will report AYP information to the Department has yet to be determined and dependent upon the USDE's approval of Iowa's AYP proposal. *Note: APR reporting and AYP accountability will be two different processes.*

A USDE Peer Review Team visited the Department on Monday, March 10, about Iowa's AYP proposal to meet NCLB requirements. (This proposal appears on the Department's web site under NCLB.) The team's report will be back in several weeks, and AYP negotiations continue.

In the meantime, however, schools can use last year's APR requirements list to guide them--these requirements are the same. (See the link below.) New requirements to meet NCLB were provided in a letter from Judy Jeffrey last November. (See the link below--item #21 in the letter).

APR Requirements 2001-02 School Year—Still Applicable

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

Judy Jeffrey Letter with New APR Requirements

<http://www.state.ia.us/educate/ecese/nclb/doc/ffesea2.pdf>

Listed below are some basic differences between APR reporting and AYP Accountability Reporting:

APR—Chapter 12	AYP—NCLB (Details Waiting USDE Approval)
Report subgroups with 10 or more students.	Report subgroups with 30 or more students.
All students are counted in participation in district-wide assessments.	Only students attending a full academic year are counted in participation in district-wide assessments.
Goals are locally determined.	Goals are determined by an AYP formula.
No sanctions.	Potential sanctions.

Superintendents' Update

2. **School Transportation: Help Me Street e-Library Resource Information.** The "Help Me Street" information resource CD-ROM has been the subject of much discussion and questions in the past nine months. The Department did pay some development costs in order to help defray purchasing costs for Iowa school districts; however, this contract with HMS will expire at the end of the current fiscal year and will not be extended. This CD-ROM may be helpful to those who have the need, but portions of the Iowa Code and Iowa Administrative Code that pertain to school bus transportation in the Iowa are available to anyone free of charge electronically at the Department's web site: <http://www.state.ia.us/educate/ecese/asis/trans/index.html>. The Department also has helpful forms and contracts available at the web site.
Contact: Max Christensen, 515-281-4749, max.christensen@ed.state.ia.us

3. **Early Start Calendar Waiver Request for the 2003-04 School Year.** If a school district wishes to commence classes for regularly established elementary and secondary school prior to the earliest starting date specified in Iowa Code subsection 279.10(1)—which is no sooner than a day during the calendar week in which the first day of September falls, it must request a waiver. (For the 2003-04 school year, this is any start date prior to Monday, September 1, 2003.) **Note: An amendment to section 279.10, subsection 1, Code 2003, to eliminate the September start date has passed through the House. If this bill is signed into law, the waiver procedure will not be required. This amendment appears in HF 549 which can be accessed through this link—see Section 17:** <http://coolice.legis.state.ia.us/Cool-ICE/default.asp?category=Matt&Service=Billbook&hbill=HF549>

Again this year, pending no change in law, school districts will make this request on their spring Basic Educational Data Surveys (BEDS). School districts who wish to request an early start calendar waiver will check "yes" on the following item in spring BEDS when it opens May 1, 2003:

2003-2004 Early Start Calendar Waiver Request

You must click UPDATE to save changes...The GO button does NOT save changes!

Would your school district like to make an early start waiver request for 2003-2004?

YES NO

[Iowa Code 279.10\(4\)](http://www.legis.state.ia.us/IACODE/2001/279/10.html) <<http://www.legis.state.ia.us/IACODE/2001/279/10.html>> allows the Board of Directors of a school district to make a request to the Director of the Department of Education to "commence classes for regularly established elementary and secondary schools prior to the earliest starting date specified in subsection 1."

By checking "yes" above, your district has made the following two assurances to fulfill your waiver request:

- The Board of Directors of a school district has held a public hearing on the early start calendar waiver request for 2003-2004 prior to July 1, 2004.
- The Board of Directors of a school district has determined that a starting date on or after the earliest starting date specified in Iowa Code section 279.10 subsection 1 will have a significant negative educational impact.

Please contact [Jeanette McGreevy](mailto:jeanette.mcgreevy@ed.state.ia.us) by email jeanette.mcgreevy@ed.state.ia.us or phone (515) 281-4750 with questions regarding this form.

Superintendents' Update

4. **Iowa Virtual Academy Survey.** Governor Vilsack and the State Board of Education have proposed the establishment of the Iowa Virtual Academy to help provide high school students with a wider range of courses not currently available in Iowa school districts. In February 2003, school districts were asked to complete a survey to assist the Department in planning courses that might be offered for the 2003-04 school year (assuming funding by the Iowa General Assembly).

The survey contained four questions:

- What courses would you like to see offered during the school year?
- What courses would you like to see offered during the summer?
- What courses do you have staff, who, with training, would be competent to teach through the Academy?
- What is your preferred method of payment?

166 school districts (47.6%) submitted complete results for the four survey items. Districts identified the following:

- Courses wanted during the academic year—highest responses: Health Occupations and Medical Terminology
- Courses wanted in summer school program—highest responses: Language Arts, Social Studies, and Algebra I

Districts can access the full report of survey results at the following address:

<http://virtualacademy.k12.ia.us/resources.cfm>

Contact: Contact: Pamela Pfitzenmaier at 1-800-532-1290 or pam@iptv.org.

5. **Winter Institute February 2003: Documents Available on Department's Web Site.** The Iowa Department of Education, in collaboration with School Administrators of Iowa (SAI) and Iowa Association of Supervision and Curriculum Development (IASCD) presented five Winter Institutes across Iowa in February. 880 educators attended. Power Point presentations from the Department and LEA presentation material from Davenport CSD, College CSD, and Pella CSD (which contain district information about comprehensive school improvement—their stories) are now available on the Department's web site at this address: <http://www.state.ia.us/educate/ecese/asis/csi/documents.html>.

Legal Lessons

The contact person for each legal lesson is Carol Greta, 515-281-5295, carol.greta@ed.state.ia.us

6. **E-mail and Iowa's Public Records Law.** Almost all incoming and outgoing e-mail at work constitutes a public record. The computer on which a public employee's emails are sent and received while at work is owned by a governmental entity. Therefore, the library of documents stored within that computer are "*public records*" as defined in Iowa Code chapter 22 (Public Records Law) to include "all records, documents, tape, or other information, stored or preserved in any medium, of or belonging to this state or any ... school corporation . . ."

If an email is concerning a specific student, the student's identity would need to be expunged before release to the public, but that would not spare the public employee (or employer) the embarrassment that a less-than-thoughtful communication can cause. Example: At a school district in another state a transportation director was complaining, via e-mail, to a building principal about the transportation requirements of a child with a disability. The principal electronically inquired about the student's problem. The director's answer, "His mother." When the mother asked for all documents concerning her child, this electronic information had to be disclosed to her. There was no hiding behind the "personal notes/memory jogger" exception to the Federal Educational Rights and Privacy Act (FERPA) because using e-mail to share this impression of the child's mother rendered it no longer a personal note to oneself.

The best rule of thumb is the “headline” test. If e-mail content won’t withstand ridicule when printed on the front page of the local newspaper, consider using another mode of communication or rethink the wisdom of the communication in the first place.

E-mails from a citizen to a school district employee are also, for the most part, public records. The same is true of regular (snail mail) letters from citizens. Such communications are public if any of the following are true:

- a. the person making the communication consents to disclosure,
- b. information in the communication can be disclosed without identifying the person who sent it, or
- c. information in the communication discloses facts surrounding a crime or illegal act, unless the disclosure would jeopardize an investigation or pose a danger to others.

On the other hand, a school district has discretion to keep communications from the public confidential if all of the following are true:

- a. the communication comes from a person outside of government,
- b. the communication is voluntary and not required by any law, rule, or procedure, AND
- c. the district could reasonably believe the public would be discouraged from communicating if such communications were available as public records.

In other words, this is a “whistle-blowers” exception.

All districts have their own web sites. A good practice would be to include a disclaimer on the web site to remind the public that citizens who write to the district should be aware that their letters could be open for examination and copying by others.

7. **What Process is Due when Suspending and Expelling a Student?** As a general rule, school districts are given much latitude and discretion by the courts regarding punishment of students who misbehave IF the district follows appropriate due process requirements. There are two sets of due process requirements, one for the temporary (ten days or less) suspension of students and one for long-term suspensions and expulsions of students.

A. Temporary Suspensions of Ten Days or Less

Iowa Code § 282.4(1) states that the local school “board may confer upon any teacher, principal, or superintendent the power temporarily to suspend a student, notice of the suspension being at once given in writing to the president of the board.” The United States Supreme Court has defined a temporary suspension as ten days or less. *Goss v. Lopez*, 95 S.Ct. 729 (1975). [Be aware that a cumulative number of days of out-of-school suspension in excess of ten may trigger more due process and may be a violation of the IDEA’s “stay put” provisions for a child with a disability.]

The due process requirements for a temporary suspension are as follows:

1. Oral or written notice to the student of the allegation(s) against him/her; and
2. If the student denies the alleged conduct, the student is entitled to an explanation of the evidence in the school’s possession, as well as an opportunity to present the student’s side.
NOTE: The student’s opportunity to present his/her side need not be before the school board; it is sufficient if the student is given an opportunity to be heard by the building administrator or district superintendent.

The above notice and rudimentary hearing should precede the removal of the student from school unless the student poses a danger to persons or property or is an ongoing threat of disruption to the academic process.

B. Expulsions or Other Long-Term Suspensions

The stakes being much higher for a student who faces expulsion or long-term suspension, naturally more process is due to that student. The requirements can be broken down into three primary areas, as follows:

1. Notice
 - Must be in writing
 - Must be directed to the parents or guardians if the student is a minor
 - Must specify the date, time, and place of the expulsion hearing

- Must be given to the student (or parent/guardian) sufficiently in advance of the hearing to enable student to prepare a defense
 - State Board of Education has suggested that this be no less than three working days
 - Must include a summary of the allegation(s) against the student sufficiently specific to enable to student to prepare a defense and a copy of any documents to be relied upon by the district in presenting its case to the board
 - Must include an enunciation of the student's rights, which are:
 - Right to be represented (by parent, guardian, friend, or attorney)
 - Right to present witnesses and evidence
 - Right to cross-examine adverse witnesses
 - Right to examine documents to be presented to the board
 - Right to a closed hearing before the board unless the student asks that the hearing remain open
2. Hearing Conduct
- Student must be given a "full and fair opportunity to be heard," which includes:
 - Opening and closing statements, if student so wishes
 - Cross-examination of adverse witnesses
 - Presentation of own witnesses and evidence
 - School board must be impartial; accordingly, no member can have prior involvement in the matter, any stake in the outcome, or any personal bias
 - Board's decision must be based on an adequate factual basis, which is the "preponderance of the evidence" standard
 - Hearsay (not first-hand) evidence is admissible at an expulsion hearing, but the board decides how credible it is and how much weight to give to such evidence
 - No new charges or information can be raised in the hearing that was not included in the notice to the student
3. Decision
- No one who advocated a position at the hearing may be present during the deliberations of the board unless all parties are permitted to remain
 - The vote on the punishment itself must occur in open session
 - Student is entitled to a written decision that includes a statement of the facts, charge(s), and penalty sufficient enough that the student will know what conduct the board found to violate what policy and what punishment was handed down as a consequence