

Eligibility Determinations Without AEA Staff

The Department has been made aware of circumstances in which a child is determined to be an eligible individual without involvement of AEA personnel. This is contrary to the former and current Iowa Administrative Rules of Special Education.

While a portion of rule 41.306 (concerning eligibility determinations) does not specify the responsible agency, this reading is unsustainable. Rules are to be read in conjunction with other rules on the same subject, and chapter 41 needs to be read as a unified whole. *King v. St. Vincent's Hosp.*, 502 U.S. 215 (1991).

First, rule 41.306(4) provides that the AEA director shall certify eligibility determinations. *See also* 41.402(1) (AEA director responsibilities). This is a statutory requirement. Iowa Code § 273.5. Second, rule 41.407 provides that AEAs are responsible for child find. Third, state rules on systematic problem solving (41.313) and general education interventions (41.312) require AEA involvement. When these rules are read together, the practice of not involving AEAs in eligibility determinations must cease.