

**Iowa Department of Education**  
**25 D.o.E. App. Dec. 157**

Petition for Declaratory Order	)	
Concerning Notice Published in	)	
the Federal Register on	)	Docket No.: 4693
December 1, 2008.	)	
	)	Declaratory Order
Glenn Grove,	)	
Petitioner.	)	
	)	

The Petitioner seeks a declaratory order concerning the following question:

If a parent withdraws consent for continued special education and related services to the parent's child, is it currently the policy of the State of Iowa that the new federal regulations [34 C.F.R. §§ 300.9, 300.300], effective on December 31, 2008, apply?

A public hearing was held, as required by my order of February 24, 2009. The period of public comment provided in that order has concluded. No oral or written comment was received.

I therefore FIND and CONCLUDE:

1. The petition is proper in form and poses a question suitable for disposition by a declaratory order. Iowa Code § 17A.9.
2. The public was afforded notice and an opportunity to participate in this proceeding. 34 C.F.R. § 300.165.
3. The federal regulations governing special education were amended in December 2008, effective December 31, 2008.
4. Declaratory orders are a well-established vehicle by which state agencies may declare policy. Iowa Code § 17A.9; *Iowa Ass'n of Sch. Bds. v. Iowa Dep't of Educ.*, 739 N.W.2d 303 (Iowa 2007).
5. The Iowa Department of Education is statutorily charged with policy formation, see Iowa Code § 256.1, and I am empowered by statute to "interpret the school laws and rules relating to the school laws," see *id.* § 256.9(16).
6. The Iowa Department of Education has already amended its procedural safeguards notice to account for the amended special education regulations that are the subject of this petition, and has advised the area education agencies of the mandatory nature of these new regulations.

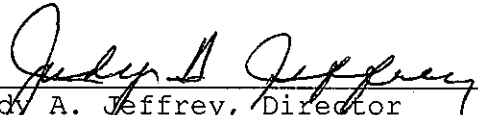
7. The question posed by the Petitioner should be answered in the affirmative, as he requests.

I therefore ORDER and DECLARE as follows:

1. The Petition for declaratory order is GRANTED.
2. IT IS DECLARED that it the policy of the State of Iowa, effective December 31, 2008, that the amended federal special education regulations, found at 34 C.F.R. sections 300.9 and 300.300, apply to situations in which parents seek to withdraw consent for continued special education and related services.
3. IT IS FURTHER DECLARED that all other mandatory terms of the amended special education regulations announced on December 1, 2008, and effective on December 31, 2008, are the policy of the State of Iowa, effective December 31, 2008.
4. This declaratory order has the same status and binding effect as a final order issued in a contested case proceeding.

Date: \_\_\_\_\_

3/27/09

  
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Judy A. Jeffrey, Director  
Iowa Department of Education