



STATE OF IOWA

KIM REYNOLDS, GOVERNOR
ADAM GREGG, LT. GOVERNOR

DEPARTMENT OF EDUCATION
RYAN M. WISE, DIRECTOR

May 30, 2018

PARENT
STREET
CITY, IA ZIP

Cite as "*IDEA State Complaint
Decision 17-18, 28 D.o.E. App. Dec.
182 (2018).*"

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State Complaint 17-18
Decision

Dear Parties and Counsel:

On April 11, 2018, the Iowa Department of Education (“Department”) received a complaint, dated April 2, 2018, filed by PARENT regarding CHILD. PARENT alleged that St. Pius X Catholic School, an accredited nonpublic school located in Urbandale, Iowa, violated requirements of the Individuals with Disabilities Education Act (“IDEA”). Broadly stated, PARENT asserts that St. Pius X violated the IDEA’s “child find” requirement and violated the IDEA’s procedural safeguards. For purposes of this discussion, the Department will assume the facts as alleged to be true.

Since St. Pius X School is not subject to the IDEA state complaint procedures and since St. Pius X has no duties under the IDEA, the Department must dismiss this state complaint.

First, the IDEA’s state complaint procedures provide for investigation of IDEA violations by public agencies. 34 C.F.R. § 300.153(b)(1). Since St. Pius X School is not a public agency, it is not subject to the IDEA’s state complaint procedures.

Second, the IDEA as a whole applies to public agencies only. *Id.* § 300.2(b). Under the IDEA, public schools are charged with ensuring nonpublic students receive a free appropriate public education (“FAPE”) in two cases: when public agencies make a placement in a nonpublic school and when a parent makes a placement because the public agency allegedly failed to provide a FAPE. *Id.* § 300.2(c). Neither of the cases apply here, and in either of these cases the responsibility lies on the public agency, not the nonpublic school.

Third, to the extent that Iowa law provides a FAPE to nonpublic school students with disabilities, that state law imposes the requirement on public agencies, not nonpublic schools. Iowa Code § 256.12(2) (2017). Furthermore, public special education services may be provided on nonpublic school grounds only with the permission of the nonpublic school’s leadership. *Id.*

While the Department in general has jurisdiction over St. Pius X and other nonpublic schools, *see id.* § 256.1(1)(f), it does not have jurisdiction over these claims or through this particular process.

For these reasons, the Department does not have jurisdiction to resolve this complaint. For that reason it is DISMISSED.

There are no fees or costs to be awarded in this matter.

Any party that disagrees with the Department's decision may file a petition for judicial review under section 17A.19 of the Iowa Administrative Procedure Act. That provision gives a party who is "aggrieved or adversely affected by agency action" the right to seek judicial review by filing a petition for judicial review in the Iowa District Court for Polk County (home of state government) or in the district court in which the party lives or has its primary office. A party may also have the right to seek review through an administrative law judge.

Because of the novel nature of this complaint, this decision will be published in the Department's appeal book.

I offer my assurance that every attempt has been made to address this complaint in a neutral manner, and in compliance with state and federal special education law. I sincerely wish the best for all involved.

Sincerely,

ORIGINAL SIGNED

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Concur,

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