

**IOWA STATE DEPARTMENT
OF EDUCATION
(Cite as 16 D.o.E. App. Dec. 162)**

<i>In Re Grant Denial</i>	:	
North Iowa Community Action Organization, Appellant	:	
v.	:	DECISION
Child Development Coordinating Council, Appellee.	:	[Adm. Doc. #4023]

The above-captioned matter was heard on August 20, 1998, before a hearing panel comprising Dr. Sandy Renegar, consultant, Bureau of Practitioner Preparation and Licensure; Mr. Morris Smith, consultant, Bureau of School Administration and School Improvement Services; and Ann Marie Brick, J.D., legal consultant and designated administrative law judge, presiding. Appellant, North Iowa Community Action Organization[hereinafter, "the Center"], was present in the person of Ms. Dianne Casto, coordinator. The Center was unrepresented by counsel. Appellee, Child Development Coordinating Council [hereinafter, "the Council"], was present in the person of Ms. Donna Eggleston, Early Childhood consultant, Bureau of Children, Families, and Community Services. The Council also appeared *pro se*.

The hearing was held pursuant to the authority of Iowa Code chapter 256A(1997) and was conducted pursuant to the terms of 281 Iowa Administrative Code 64.22. The administrative law judge finds that she and the Director of the State Department of Education have jurisdiction over the parties and the subject matter of this appeal.

On or about July 20, 1998, the North Iowa Community Action Organization appealed the decision to revoke the funding of the Mason City child development class (Grant #: NI-98-0495-076) for failure to obtain the required NAECP accreditation.

**I.
Findings of Fact**

This program was initially funded in 1995 to serve 16 four-year-old children who were identified as "at risk" of failing in school. It is the second shared-vision program awarded to North Iowa Community Action Organization. The other classroom is located in Manly, Iowa.

This appeal concerns the four-year-old classroom that is located at the Seventh Day Adventist School in Mason City, Iowa. The site also houses a headstart classroom operated by North Iowa Community Action Organization. A fully equipped kitchen is on-site for the preparation and serving of breakfast and lunch for both the headstart and the Mason City shared-vision program.

On February 12, 1997, Dianne Casto, coordinator of both programs, received notification from the Council that stated in part as follows:

As a requirement for continued funding, your program must show evidence of NAECP [National Academy of Early Childhood Programs, hereinafter referred to as "NAECP" or "the Academy"] accreditation by April 15, 1997. In the event, your program does not receive its accreditation by that date, you must complete and submit a Request for Waiver Form which is enclosed with this letter. ...

The Center sought a waiver that was granted by the Council on May 21, 1997, under the following conditions:

That all accreditation activities, including the site visit, must be completed by November 21, 1997, and that the Council must receive notification of accreditation by December 31, 1997.

(Council Min., May 21, 1997.)

On December 17, 1997, the Mason City Center had not received accreditation. Seven other programs that had received waivers did not receive accreditation by that date, as well. The Coordinating Council deliberated and decided not to terminate these programs mid-year because it would cause a great deal of hardship on families having to deal with the mid-year closing of a Center. Therefore, a motion was made and seconded to allow the non-accredited programs additional time to complete the accreditation process, up to June 30, 1998. The motion was unanimously approved that "[i]f a program has not received accreditation by that date, Council funding will be terminated effective June 30, 1998." (Council Min., December 17, 1997) On January 6, 1998, Donna Eggleston notified Dianne Casto that the Council had voted not to terminate funding for the Center on December 31, 1997. The letter stated unequivocally:

However, your program must be accredited and notification must be received by the Council no later than June 30, 1998. Failure to comply with this requirement will result in the termination of your funding effective June 30, 1998. You have the right to appeal the

decision to terminate and additional information will be sent to you at that time.

(January 6, 1998, letter from Eggleston to Casto.)

On July 29, 1997, Dianne Casto received notification from the NAECP that the accreditation of her program had been *deferred*. (July 29, 1997, letter from NAECP to Casto.) According to the Academy's criteria, when accreditation of a program is deferred, accreditation can only be achieved if the Center notifies the Academy within nine months that cited deficiencies have been cured. If the site visit by the Academy consultant shows that there are still areas of noncompliance with the accreditation criteria and the program is deferred a second time, the accreditation progress must be started completely over from the beginning. That is what happened in the present case.

The Center appealed the termination of funds by the Council on two grounds: 1) that North Iowa Community Action Organization took the required steps to achieve the requested accreditation. However, the accreditation process takes a longer time to achieve than is allowed by the Council; and 2) that Academy sent a different evaluator to the second on-site visit which resulted in deficiencies being noted by the second evaluator which were not cited by the first evaluator.

As a result of these "problems" with the NAECP accreditation process, the Center will probably not be able to achieve accreditation for another year.

II. Conclusions of Law

Iowa Code chapter 256A establishes the "Child Development Coordinating Council". The Council is comprised of nine members who represent the various agencies or departments designated by the statute. The primary responsibility of the Council is to "promote the provision of child development services to at-risk three-year- and four-year-old children". Iowa Code section 256A.2(1997).

In order to promote a high standard of programming among its grantees, the Council has decided to condition the continued receipt of child development grants upon the grantee's attaining accreditation by the National Academy of Early Childhood Programs (NAECP). 281 Iowa Administrative Code 64.15(5). Pursuant to the Administrative Rules promulgated by the Council, the grantee's responsibilities are listed in pertinent part as follows:

Continuation programs shall participate in the Self-Study and Accreditation Program of the National Academy of Early Childhood Programs. Continuation programs not able to attain

accreditation by April 15, 1995, and every April thereafter, may apply for a waiver of accreditation by March 15, 1995, and every March thereafter. Waivers shall be awarded at the discretion of the council. Programs not attaining accreditation or not receiving a waiver of accreditation will be terminated.

The evidence shows that the Mason City Center was given several opportunities to achieve accreditation before the Council terminated the \$60,000 annual funding for the at-risk program. Although it does appear that the NAECP is extremely busy with the demands for accreditation visits, the Academy cannot be blamed for the Mason City Center's failure to achieve accreditation. Twenty non-accredited programs were granted waivers by the Council at its May 21, 1997, meeting. All were given the same conditions as the Mason City program. All had to achieve accreditation from the NAECP under the identical process and timelines, or funds would be terminated on December 31, 1997. When December 17, 1997, came and there were eight centers who still had not received accreditation, they were all given additional time until June 30, 1998, to finalize the process. By June 30, 1998, only Appellant and one other program had failed to acquire the required accreditation.

On July 1, 1998, Ms. Casto received notification that the funding for the shared-visions program in Mason City would be terminated as of June 30, 1998. There is no evidence that the Council erred in terminating the funds of this center. Indeed, failure to terminate funds for this grantee would contradict the mission of the Council which is to promote "a high standard of programming among its grantees ...". 281 IAC 64.15(5).

III. Decision

For these reasons, the actions of the Coordinating Council in terminating the grant funds to this center shall be affirmed.

DATE

ANN MARIE BRICK, J.D.
ADMINISTRATIVE LAW JUDGE

DATE

TED STILWILL, DIRECTOR
DEPARTMENT OF EDUCATION