

*IOWA STATE DEPARTMENT
OF EDUCATION
(Cite as 15 D.o.E. App. Dec. 195)*

<i>Petition by the Iowa State Education Ass'n</i>	:	
<i>for a Declaratory Ruling on the obligation</i>	:	
<i>of practitioners to provide parental notifica-</i>	:	<i>DENIAL OF</i>
<i>tion in conjunction with a caseload appeal</i>	:	<i>PETITION FOR</i>
<i>filed pursuant to §281—41.105 of Rules</i>	:	<i>DECLARATORY RULING</i>
<i>for Special Education</i>	:	

February 17, 1998

Dr. Robert Gilchrist, President
Iowa State Education Association
4025 Tonawanda Drive
Des Moines, IA 50311-2999

Dear Dr. Gilchrist:

Your petition for Declaratory Ruling was filed on February 4, 1998, on behalf of the Iowa State Education Association. The following five questions were proposed for response:

1. Is a practitioner, an[sic] LEA or the Department required to notify parents when a caseload appeal is filed affecting their child?
2. Is a practitioner, an[sic] LEA or the Department required to notify parents about the details of a caseload appeal when it is alleged that that one or more objectives in their child's IEP are not being met?
3. Is a parent entitled to a hearing on the accuracy of information in a caseload appeal or its effect on their child?
4. Is an[sic] LEA or the Department obliged to notify parents of the disposition of a caseload appeal?

5. Must an[sic] LEA include provision for parental notification of a caseload appeal in its locally designed Special Education delivery system ("Plan B"), pursuant to §41.84(2)"b"3 of the Rules of Special Education?

Pursuant to the provisions of 281—Iowa Administrative Code 3.5, this agency may refuse to issue a declaratory ruling for good cause. The definition of "good cause" includes the following reason: "The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter." 281—IAC 3.5(5). This reason constitutes good cause for the denial of this Petition for a Declaratory Ruling because the procedures for parental notification can be more appropriately addressed at the local level.

Petitioner relies upon 281—Iowa Administrative Code 41.105 as the basis of its need for clarification regarding the requirement for parental notification whenever a caseload appeal is filed. That rule states in relevant part that "[a]n individual organization may file a signed written complaint that includes a statement that an agency has violated these rules, *which include 41.84(2)(b)(3)*, and the facts on which the statement is based." *Id.* (Emphasis added).

The referenced subrule [41.84(2)(b)(3)] is contextually part of a plan that allows the LEA to develop and create its own process for the delivery of special education instructional services. The LEA-developed delivery system must be described in writing [41.84(2)(b)]; it must be developed by a group of individuals that includes parents of eligible individuals [41.84(2)(c)(2)]; and the proposed delivery system must be presented to the public for comment and discussion before it is adopted [41.84(2)(c)(4)].

Additionally, the rules mandate that the delivery system include five specific components. Two of these components concern caseload procedures. The mandatory components require that the LEA-developed delivery system include:

...

2. A description of how the caseloads of special education teachers will be determined and regularly monitored to ensure that the IEPs of eligible individuals are able to be fully implemented.

281—IAC 41.84(2)(b)(2).

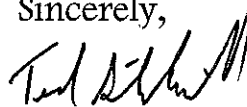
3. A description of the procedures a special education teacher can use to resolve concerns about caseload. The procedures shall specify timelines for the resolution of a concern and identify the person to whom a teacher reports a concern. The procedures shall also identify the person or persons who are responsible for reviewing a concern and rendering a decision, including the specification of any corrective actions.

281—IAC 41.84(2)(b)(3).

Therefore, the rules envision that the process, which is developed at the local level, will afford all necessary parties the means to resolve special education caseload concerns. If the locally-developed procedures are not followed, then an appeal to the Department of Education is the *final step*— not the initial step. When parents should be notified of caseload concerns is a question that can be addressed more appropriately in the LEA plan rather than a declaratory ruling issued at the State level. If that is done, practitioners will not inadvertently violate parental notification standards, and parents will be more adequately informed when caseload concerns may affect the delivery of instructional services to their children.

This constitutes final agency action for the purposes of chapter 17A, Code of Iowa (1997).

Sincerely,



Ted Stilwill
Director

cc: Mary Gannon, Iowa Assn. of School Boards
Kathy Collins, School Administrators of Iowa
Curt Sytsma, Iowa Professional & Advocacy Services
Kim Whiting, Iowa TASH
Vicki Goshon, Learning Disabilities Assn. of Iowa
Dr. Jeananne Hagen, Bureau of Special Education