



## STATE OF IOWA • DEPARTMENT OF PUBLIC INSTRUCTION

GRIMES STATE OFFICE BUILDING • DES MOINES IOWA 50319-0146

ROBERT D BENTON, Ed.D., STATE SUPERINTENDENT  
 David H Bechtel M S, Administrative Assistant  
 JAMES E. MITCHELL, Ph.D., DEPUTY SUPERINTENDENT

Iowa  
 a place to grow

## DECLARATORY RULING #36

(Cite as 1 D.P.I. Dec. Rul. 101)

July 29, 1985

Mr. Edgar H. Bittle  
 Ms. Patricia J. Martin  
 Ahlers, Cooney, Dorweiler, Haynie,  
 Smith and Allbee  
 300 Liberty Building  
 Sixth and Grand  
 Des Moines, Iowa 50309

Dear Mr. Bittle and Ms. Martin:

On June 13, 1985 you filed a Petition for Declaratory Ruling on behalf of Des Moines Independent Community School District (the District). Subsequently, on July 2, 1985 you filed an Amended and Substituted Petition (the Petition). In the Petition you described the Home Instruction Assistance Program, authorized and approved by the Des Moines school board, which appears to operate as a satellite program sponsored and implemented by the District and District personnel. The District has state approval status as provided in Iowa Code section 257.25 (1985).

In order to "enforce its legal rights, duties, and responsibilities under Iowa Code section 299.1 (1985) in an area where there is substantial disagreement and controversy," the District propounded two questions in its Petition based upon supplied data. The two questions were posed as follows:

1. Is a parent who enrolls a child in the Des Moines Independent Community School District's Home Instruction Assistance Program, as outlined above, in compliance with the Iowa compulsory attendance laws which require "equivalent instruction by a certified teacher elsewhere"?
2. If the answer to the above-stated question is "no," how must the Des Moines Independent Community School District review or amend its program of home education so that parents who enroll their children into this program may comply with the Iowa compulsory attendance laws?

In reviewing the information you supplied in the Petition, we found therein two paragraphs controlling on the question; to wit:

- [2]a. Application for the program must be received prior to August 1 of the school year. The same enrollment information is required of each student as those attending schools in a traditional classroom setting;
- [2]b. No tuition is charged and students are counted in official enrollment information sent to the Department of Public Instruction;

Petition, page 1 (emphasis added).

Based upon the above emphasized language and the "enrollment" phraseology of your question, I assume that enrollment in the District is a prerequisite to inclusion in the Home Instruction satellite program. I further assume that the term "attendance" as used in section 299.1 is consonant with "enrollment" as used in your Petition.

Iowa Code section 299.1 reads, in pertinent part, as follows:

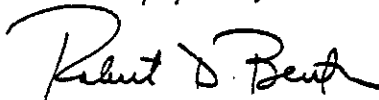
A person having control of a child over seven and under sixteen years of age, in proper physical and mental condition to attend school, shall cause the child to attend some public school for at least one hundred twenty days in each school year, . . . .

Iowa Code § 299.1 (1985) (emphasis added).

Therefore, if my assumptions are correct, a parent who enrolls a child in the Des Moines schools for one hundred twenty days has complied with the first paragraph of section 299.1. Consequently, no need exists to test the District's program under the second paragraph, for enrollment in a Des Moines school would not be "in lieu of" attendance in the public schools.

Answering your first question in the affirmative renders moot your second question.

Sincerely yours,



Robert D. Benton, Ed.D.  
Commissioner of Public Instruction

RDB:kp