

EDUCATION DEPARTMENT[281]

Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 41, "Special Education," Iowa Administrative Code.

These amendments make technical corrections to Chapter 41 resulting from revisions to the chapter in 2007, make technical corrections required by federal regulatory changes in 2007 and 2008, make clarifying changes regarding the role of general education, and make clarifying changes concerning child find and eligibility determinations.

An agencywide waiver provision is provided in 281—Chapter 4.

Notice of Intended Action was published in the August 26, 2009, Iowa Administrative Bulletin as **ARC 8050B**. A public hearing was held at 16 sites over the Iowa Communications Network (ICN) on October 13, 2009, and public comments were allowed until 4:30 p.m. on October 13, 2009.

One person attended the public hearing. Two written comments were received. One comment, submitted by an AEA director of special education, was entirely favorable to the rule making. The other comment was submitted by the sole person to attend the public hearing, who is the director of a nonprofit organization that assists parents of children with disabilities, and was also entirely favorable to the rule making. The commenter representing the nonprofit organization expressed concern that, in implementation, public agencies will not sufficiently honor parental requests to evaluate a child. The Department has reviewed this concern and concludes that the amendments adopted herein adequately address it. A public agency must seek parental consent to evaluate whenever a disability is suspected, and a parent may request an evaluation at any time. A public agency, however, need not conduct an evaluation when requested by a parent if the public agency does not have information that would cause it to suspect the child has a disability; in that case, the public agency must provide a parent with prior written notice that an evaluation will not be conducted.

These amendments are identical to those published under Notice.

These amendments are intended to implement the Individuals with Disabilities Education Act (20 U.S.C. §§ 1400-ff as implemented by 34 CFR Part 300) and Iowa Code chapter 256B.

These amendments shall become effective January 20, 2010.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 41] is being omitted. These amendments are identical to those published under Notice as **ARC 8050B**, IAB 8/26/09.

[Filed 11/21/09, effective 1/20/10]

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[For replacement pages for IAC, see IAC Supplement 12/16/09.]