

281—33.9(256) Dispute resolution. If a homeless child or youth is denied access to a free, appropriate public education in either the district of origin or the district in which the child or youth is actually living, or if the child or youth's parent or guardian believes that the child or youth's best interests have not been served by the decision of a school district, an appeal may be made to the department of education as follows:

33.9(1) If the child is identified as a special education student under Iowa Code chapter 256B, the manner of appeal shall be by letter from the homeless child or youth, or the homeless child's or youth's parent or guardian, to the department of education as established in Iowa Code section 256B.6 and rule 281—41.508(256B,34CFR300). The letter shall not be rejected for lack of notarization, however. Representatives of the public school district where the child or youth desires to attend and of the corresponding area education agency, as well as the child, youth, or parent or guardian of the child or youth, shall present themselves at the time and place designated by the department of education for hearing on the issue. The hearing shall be held in accordance with rule 281—41.508(256B,34CFR300).

33.9(2) If the child is not eligible for special education services, the manner of appeal shall be by letter from the homeless child or youth or the homeless child or youth's parent or guardian to the director of the department of education. The appeal shall not be refused for lack of notarization, however. Representatives of the public school districts denying access to the homeless child or youth and the child, youth, or parent or guardian of the child or youth shall present themselves at the time and place designated by the department of education for hearing on the issue. The provisions of 281—Chapter 6 shall be applicable insofar as possible; however, the hearing shall take place in the district where the homeless child or youth is located, or at a location convenient to the appealing party.

33.9(3) At any time a school district denies access to a homeless child or youth, the district shall notify in writing the child or youth, and the child or youth's parent or guardian, if any, of the right to appeal and manner of appeal to the department of education for resolution of the dispute, and shall document the notice given. The notice shall contain the name, address, and telephone number of the legal services office in the area.

33.9(4) This chapter shall be considered by the presiding officer or administrative law judge assigned to hear the case.

33.9(5) Nothing in these rules shall operate to prohibit mediation and settlement of the dispute short of hearing.

33.9(6) While dispute resolution is pending, the child or youth shall be enrolled immediately in the school of choice of the child's parent or guardian or the school of choice of the unaccompanied youth. The school of choice must be an attendance center either within the district of residence or the district of origin of the child or youth.

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