

XI. METHODS OF ENSURING SERVICES

It is the policy of the State of Iowa that interagency agreements are in effect between noneducational public agencies and the State Education Agency (SEA) to ensure that FAPE is provided to students and children receiving special education services. The interagency agreements include:

1. An identification of, or a method for defining, the financial responsibility of each agency for providing services and to ensure FAPE to children with disabilities. The financial responsibility of each noneducational public agency, including the State Medicaid agency and other public insurers of children with disabilities, must precede the financial responsibility of the local education agency (LEA).
2. The conditions, terms, and procedures under which an LEA must be reimbursed by other agencies.
3. Procedures for solving interagency disputes (including procedures under which LEAs may initiate proceedings) under agreement or other mechanism to secure reimbursement from other agencies or otherwise implement the provisions of the agreement or mechanism.
4. Policies and procedures for agencies to determine and identify the interagency coordination responsibilities of each agency to promote the coordination and timely and appropriate delivery of services.

The Iowa Department of Education and the Iowa Department of Human Services enter into an interagency agreement that delineates responsibilities for the administration of the Iowa Medical Assistance Program (IAMAP), a program for Medicaid reimbursement. Each of the area education agencies (AEAs) and the Department of Human Services also sign agreements to implement IAMAP.

The Department of Corrections, the Department of Education and the AEAs sign an interagency agreement to provide special education services to student inmates requiring special education services incarcerated in Iowa's adult correction facilities.

Where disputes arise between two agencies regarding the financial or programmatic responsibility for special education, the final determination will be made by the State Board of Education. An AEA or LEA may appeal a decision to the State Board of Education. The decision of the state board is final. The Iowa Code also provides for binding arbitration between state agencies. Iowa Code § 679A.19. Interagency agreements shall be made in compliance with the provisions of Iowa Code chapter 28E (Joint Exercise of Governmental Power).

The Individuals with Disabilities Education Act and state laws and rules for the implementation of this Act shall not be construed to limit the responsibility of agencies other than educational agencies in a State from providing or paying for some or all of the cost of a free appropriate public education to be provided children with disabilities in the State.

If a child with disabilities is covered by public insurance, a public agency may use the Medicaid or other public insurance benefits programs in which a child participates to provide or pay for services required and as permitted under the public insurance program. The public agency must obtain parental consent the first time that access is sought and notify parents that refusal to allow access to their public insurance does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parents. The public agency may not require parents to sign up for or enroll in public insurance programs in order for their child to receive FAPE. The public agency may not require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim for services provided under these rules; but may pay the cost that the parent otherwise would be required to pay; and may not use a child's benefits under a public insurance program if that use would:

1. Decrease available lifetime coverage or any other insured benefit;
2. Result in the family paying for services that would otherwise be covered by the public insurance program and that are required for the child outside of the time the child is in school;
3. Increase premiums or lead to the discontinuation of insurance; or
4. Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.

A public agency may access a parent's private insurance proceeds only if the parent provides informed consent as defined by rule to provide services required for FAPE. Each time the public agency proposes to access the parent's private insurance proceeds it must:

1. Obtain parent consent in accordance with rule; and
2. Inform the parents that their refusal to permit the public agency to access their private insurance does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parents.

The Department of Education assists in the coordination of the educational activities and services provided to children requiring special education with agencies such as the Department of Human Services and the Board of Regents.