

What is ex parte communication?

Ex parte communication is either:

- 1) when one party in a case communicates with the judge without the other party being present, or
- 2) when the judge in a case communicates with one party without the other party being present.

Ex parte communication may be oral or written.

How does this affect me?

Iowa law prohibits ex parte communication.

When you are a party in an appeal before the Iowa Department of Education, you may not communicate with the administrative law judge, the panel members assigned to decide your case, the Department's director, or any members of the State Board of Education unless the other party is given the opportunity to be present.

In Department of Education contested/appeal cases, the parties are the parent(s) or adult student, and either the local school district or the Iowa High School Athletic Association/Iowa Girls High School Athletic Union, depending on the type of case. In CACFP appeals, the parties are the daycare provider and the provider's sponsor. Ex parte communication rules apply to all of these parties.

You must also remember that the other side will not be able to communicate with the judge, panel members, director, or State Board members without you knowing it.

What should I do?

We know that you will need to communicate with us either in writing or orally about your case, so we offer the following suggestions so that you do not violate the ex parte communication law.

- 1) If you fax or send a written document about your case to the Department of Education, you should fax or send a copy to the other party at the same time.
- 2) If you have a question about your case, you may call Cheryl Smith at (515) 281-5295. Ms. Smith can only answer general questions about appeal procedure. For example, if you want to know how to appeal a decision of a local school board, she can tell you how to do that. She cannot answer questions like, "What are my chances for success if I appeal?"

Ms. Smith may refer you to another person at the Department of Education who may be able to help you with some of your questions. However, some questions are specific to your case and require legal advice. Department staff cannot give you legal advice. An example of a legal advice question is, "Did

the local board's action in my case comply with Iowa law, and should I appeal?" For those questions, you should talk with your own lawyer.

- 3) There may be a need for one of the parties in a contested case to speak with the administrative law judge prior to the hearing. This will not be true very often. If it is, you should either:

- a) send a letter to the Department of Education telling us the situation and why you need to have a telephone conference call with the judge; or,

- b) call Ms. Smith and tell her.

If you do this, you should let the other party know you are doing it, either orally or in writing. If a conference call is needed, we will schedule one, and both parties will be told when the conference call will be held.

One final note

The ex parte communication rules mean that you will be given the opportunity to participate when the other party wishes to speak to the judge. Therefore, if you receive notice, either orally or in writing, that a telephone conference call will be held, you should be sure to participate. If the time for the conference call will not work for you, call Ms. Harris. The time may be changed so as to accommodate both parties. If you do not request a change, the call will be held in your absence. This will not violate the ex parte communication rules, because you were given the opportunity to participate.