



Disability Rights Iowa

LEGAL PROTECTION AND ADVOCACY

Disability Rights Iowa

HSB 1 – Testimony in Opposition

January 17, 2023

Chairpersons and honorable members of the Committee. My name is Catherine E. Johnson. I am the Executive Director of Disability Rights Iowa. DRI is an independent, non-profit agency, which serves as the designated protection and advocacy system for people with disabilities in the state of Iowa, pursuant to federal mandates. The mission of the agency is to protect and advocate for the human and legal rights of Iowans with disabilities. I appear before you to share DRI's concerns regarding the impact of HSB 1 on the Disability Community, and opinion that HSB 1 would violate federal disability laws.

The primary law that protects students with disabilities is the Individuals with Disabilities Education Act, or the IDEA. In most cases, this federal law only applies to public schools and agencies and not to non-public schools. The IDEA requires public schools to provide students with a free and appropriate public education, otherwise known as FAPE, which includes supports and services specially designed to enable the student to fully access their education.

Students with disabilities at non-public schools have fewer conflict resolution choices than if they attended public school.

State law extends the entitlement to special education supports and services to students in non-public schools. However, if the non-public school acts in any way that violates federal or state special education laws, there is no accountability for the non-public school short of a possible federal lawsuit which is expensive and time consuming. This is because the administrative procedures for conflict resolution that are available for public school students are not available for non-public students if the non-public school is violating the student's legal rights to special education.

Students with disabilities at non-public schools have less protections against discrimination than if they attended a public school.

The Americans with Disabilities Act (ADA) and the Rehabilitation Act do not allow a public school to discriminate against a student because of the student's disability. The ADA does not apply to religious non-public schools and the Rehabilitation Act only applies to non-public schools if they accept federal funding. Therefore, students with disabilities in non-public schools are at a higher risk of being discriminated against without any legal redress in non-public school settings.

Additionally, DRI is concerned about the lack of protection for students with disabilities subject to disciplinary proceedings. Public schools are required to determine whether a student's behavior is a result of their disability prior to expelling a student or suspending them for an extended period of time. If their behavior is a manifestation of their disability, the school must explore other responses that enable the student to remain in school and receive the services necessary to lessen the behaviors at issue. Non-public schools have no such obligation and may expel a student for conduct that is a result of their disability. This discriminatory practice risks further segregating students with disabilities and limiting the choices their families have to provide them with an education.

Our Mission: To defend and promote the human and legal rights of Iowans with disabilities

Students with disabilities may face increased segregation and have fewer opportunities at non-public schools than if they attend public schools.

Federal laws prohibiting discrimination against students with disabilities do not apply to many non-public schools which allows these non-public schools to deny entry of students with disabilities. Even if a student with a disability is admitted This means that students with disabilities do not have the same choices and opportunities as students without disabilities under the proposed school voucher law.

While many non-public schools are not subject to these federal laws, the State of Iowa is covered under the ADA. The state's proposed plan for school vouchers risks violating the ADA's prohibition of public entities using policies or procedures that have the effect of discriminating against people because of their disability. The ADA also requires that services be provided in the most integrated setting appropriate for the individual with disabilities. School vouchers can lead to segregation of students, particularly those with mental and behavioral health needs.

The SF2197 Taskforce collected data from the Department of Education which showed that non-public schools currently enroll only 803 students with Individualized Education Programs (IEPs), or 2.19% of their student body. Conversely, public schools enroll 69,393 students with IEPs, or 12.39% of their student body. A school voucher program is not likely to change this discrepancy in a significant manner because non-public schools can deny entry to students with disabilities. Rather, vouchers are more likely to create a higher concentration of students with disabilities in public schools than there is currently. This would place a greater burden on public schools to provide special education services with less money. Schools all over the state already struggle to provide adequate services to students with disabilities due to shortages of staff, funding, and other resources. This is particularly true for small rural schools.

The Taskforce also noted that non-public schools are not required to provide FAPE. Rather, AEAs are required to make special education services available to students with disabilities at non-public schools. If the services are provided at the school, AEA staff must travel throughout their region to provide these services. This is especially burdensome on rural communities where AEAs already face staffing shortages and may have to travel long distances. Additionally, non-public schools can prohibit the AEA from providing special education services on the non-public school's premises. This may mean that in order for the AEA to meet their legal obligations, a student must be transported from their non-public school to the AEA and back in order to receive the services to which they are entitled. In rural communities the time that it takes to make these trips can be significant and result in a considerable loss of educational time.

Recommendations have been made to mitigate some of these concerns, but they are robust enough to alleviate all of DRI's concerns with this legislation.

DRI strongly opposes this legislation. However, should this bill move forward, we recommend that members of this committee carefully consider the recommendations provided to you in the recent report by the SF 2197 Taskforce. The attached Taskforce Report outlines several recommendations that DRI feels would mitigate some of the issues students with disabilities face when attending non-public schools.

However, the Taskforce's recommendations only scratch the surface of the considerations necessary to ensure that students with disabilities receive appropriate and quality education at non-public schools, such as the three outlined above. Additionally, the Task Force did not consider the issue as it relates to a vouchers program in general, and this legislation specifically. DRI welcomes the opportunity to discuss our concerns more in-depth with any member of the Iowa Legislature.

Special Education Support for Students Enrolled in Nonpublic Schools

Legislative Task Force 2197

Submitted to the General Assembly

December 1, 2022

Task Force Participants

Task force 2197: Special Education Support for Students Enrolled in Nonpublic Schools participants, fulfilling the positions designated by the legislation, were invited and informed by the Department of Education and are listed by name, title, and task force position represented.

- Ryan Allen, Sioux City Parent; A parent or guardian of a student who is enrolled in a nonpublic school, receives special education services, and who resides in an urban area.
- Rachel Bosovich, Special Education Attorney, Iowa Department of Education; An attorney employed by the Department of Education who is familiar with the state and federal laws governing special education.
- Josh Bowar, Head of School; Sioux Center Christian School; A representative of an accredited nonpublic secondary school.
- Shelby Douglas, Principal, Immaculate Conception Elementary School; A representative of an accredited nonpublic elementary school.
- Brenda Duvel, Executive Director of Special Education, Dubuque Community School District; A special education director of a school district.
- Barbara Guy, Director of Special Education, Iowa Department of Education; The chief of the special education bureau of the Department of Education, or the chief's designee.
- Nathan Kirstein, Staff Attorney, Disability Rights Iowa; An attorney who is familiar with the state and federal laws governing special education and who is not employed by the state or a political subdivision of the state.
- Seth Piro, Executive Director of Special Education, Northwest Area Education Agency; A director of special education of an area education agency.
- Mandy Ross, Superintendent, Webster City Community Schools; A superintendent of a school district.
- Emily Wollak, Charles City Parent; A parent or guardian of a student who is enrolled in a nonpublic school, receives special education services, and who resides in a rural area.
- Cindy Yelick, Chief Administrator, Great Prairie Area Education Agency; A chief administrator of an area education agency.

The task force was facilitated by Beckie Davis and Sara Doutre, technical assistance providers from the National Center for Systemic Improvement at WestEd.

Inquiries or questions about this Task Force report should be directed to Barbara Guy, Director of Special Education, Iowa Department of Education. Email: barbara.guy@iowa.gov

Special Education Support for Students Enrolled in Nonpublic Schools

Legislative Task Force 2197, Report Submitted to the General Assembly on December 1, 2022

Executive Summary

Going beyond the requirements of the Individuals with Disabilities Education Act (IDEA), Iowa Code (§ 256.12) entitles students with disabilities enrolled in accredited nonpublic schools (nonpublic schools) to receive a free appropriate public education (FAPE) in their least restrictive environment. The code requires area education agencies (AEAs) and local education agencies (LEAs) to

“...make public school services, which shall include special education programs ... available to children attending nonpublic schools in the same manner and to the same extent that they are provided to public school students.”¹

Priorities

Task force 2197: Special Education Support for Students Enrolled in Nonpublic Schools (task force) identified three interrelated priorities to better serve students enrolled in nonpublic schools who receive special education services.

- **Priority 1. Individualized Education Program (IEP) and Placement Decisions.** Ensure adherence to the IDEA requirements related to the provision of FAPE and educational placement decisions for students with a disability enrolled in nonpublic schools, and further expand the understanding of how Iowa law requires the nonpublic school as the school a student would attend if nondisabled for purposes of placement decisions.
- **Priority 2. Ongoing, Meaningful Consultation Between AEAs, LEAs, and Nonpublic Schools.** Ensure that meaningful consultation between AEAs and nonpublic schools occurs and that it leads to results that better serve students enrolled in nonpublic schools who receive special education services, especially those students who reside in rural areas of the state.

¹ Iowa Code § 256.12 (2)(a).

- **Priority 3. Identification and Promotion of Successful Models and Strategies.** Improve awareness and use of successful models and strategies for providing special education to students enrolled in nonpublic schools, highlighting strategies that can be used in rural settings.

Recommendations

To meet these priorities, the task force recommends six actions to be taken by the state, including the General Assembly, the Department of Education and their public and nonpublic partners to improve special education and related services provided to students with disabilities enrolled in nonpublic schools, including students who reside in rural areas of the state. Descriptions of the discussions that led to these recommendations and additional details on the resources, responsibilities, and timelines for implementation are included in the full report.

Priority 1. Individualized Education Program (IEP) and Placement Decisions.

Recommendation 1: Revise Iowa administrative code relative to placement decisions to increase understanding of the requirement that the nonpublic school be considered as a placement option.

Amend Iowa § 281-41.116(1)(c) to include the highlighted language:

- Unless the IEP of a child with a disability requires some other arrangement, the child shall be educated in the school that he or she would attend if nondisabled, **including a nonpublic school where the child is enrolled; ...**

While it is implied in the existing language, this change to code can serve as a signal to IEP teams that the IEP team must consider and discuss the supports needed for the student to receive special education services in their nonpublic school as part of each placement decision.

Recommendation 2: Establish processes for IEP facilitation to assist IEP teams with decisions regarding FAPE and placement for students enrolled in nonpublic schools.

Provide funding for IEP meeting facilitators that are specifically trained and available, through the state and not AEAs, to attend IEP meetings for students enrolled in nonpublic schools, prioritizing meetings where FAPE and placement decisions are made. Ensure IEP facilitation is offered to parents in advance of IEP meetings for students in nonpublic schools when placement and location decisions will be made and it is anticipated that facilitation would be a benefit.

Recommendation 3: Provide professional learning and other support materials and tools for IEP teams, including students, families, teachers service providers, and administrators of both

public and nonpublic schools, to understand IDEA-required processes relevant to nonpublic school students and to promote informed participation in IEP meetings of students served in nonpublic schools.

The task force recommends the Department of Education continue to promote and support IEP teams to make FAPE and placement decisions. This can be done through the development of professional learning and materials with the intention of empowering the IEP team to broaden the concepts of FAPE and placement and encouraging innovation in sharing resources to better serve students when a student is enrolled in a nonpublic school. Other recommended resources to consider include:

- Scripts and guiding questions for IEP teams, which may include the identification of available resources and supports in the nonpublic school setting.
- Training provided for nonpublic school administrators, with input and oversight from the Department's existing Nonpublic Advisory Committee.

Priority 2. Ongoing, Meaningful Consultation Between AEAs, LEAs, and Nonpublic Schools.

Recommendation 4. Develop and provide professional learning and other materials for meaningful consultation for AEAs, LEAs, and nonpublic school representatives.

Resources are needed to increase the consistency and efficiency of the required consultative process between AEAs and nonpublic schools. Optional materials for consultation between LEAs and nonpublic schools should also be available. The training and consultation materials should include:

- Updated or refreshed guidance on expectations for the consultative process.
- Tools for conducting efficient consultation including invitation templates, a calendar, and agendas for consultation throughout the year, and scripts and checklists. The materials should include documenting available resources and capacity, including class sizes, personnel qualifications, any continuum of placements available, and capacity to provide differing intensities of services.

Recommendation 5. Establish sustainable accountability and data collection systems that meet legal requirements and encourage innovative models for meeting the needs of students.

The task force recommends the Department of Education review and adapt, if necessary, accountability mechanisms to ensure meaningful consultation and the other required processes (e.g., Child Find, data collection, proportionate share) are occurring. Explore ways to make the data readily available in an accessible format for the purposes of continuous improvement.

Priority 3. Identification and Promotion of Successful Models and Strategies.

Recommendation 6. Develop an implementation plan for identifying, evaluating, and promoting strategies and models for providing special education and related services with

and in nonpublic schools that improve the experiences and outcomes for students with disabilities.

- The plan should be organized around innovations in three areas:
 - Student-level instructional strategies and innovative practices.
 - IEP team practices including FAPE and placement decisions, for individual students.
 - Consultation, coordination, and resource sharing between the public and nonpublic school systems.
- The task force recommends funding for innovation and model demonstration projects using joint development sites where the AEA, school district, and nonpublic school are working together.
- Initial implementation of these projects should consider including the development of professional learning communities or networked improvement communities to allow for the exchange of ideas and learning across nonpublic and public teams.

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Introduction

Task Force Purpose

Senate File 2197 (2022)² provided for the establishment of a task force related to special education support for students at nonpublic schools as follows:

1. The Department of Education shall convene and provide administrative support to a special education task force that shall study and make recommendations regarding how to better serve students enrolled in nonpublic schools who receive special education services especially those students who reside in rural areas of the state.
2. The task force shall consist of the following members;
 - a. A director of special education of an area education agency.
 - b. A chief administrator of an area education agency.
 - c. A representative of an accredited nonpublic secondary school.
 - d. A representative of an accredited nonpublic elementary school.
 - e. A special education director of a school district.
 - f. A superintendent of a school district.
 - g. An attorney employed by the Department of Education who is familiar with the state and federal laws governing special education.
 - h. The chief of the special education bureau of the Department of Education, or the chief's designee.
 - i. An attorney who is familiar with the state and federal laws governing special education and who is not employed by the state or a political subdivision of the state.
 - j. A parent or guardian of a student who is enrolled in a nonpublic school, receives special education services, and who resides in a rural area.
 - k. A parent or guardian of a student who is enrolled in a nonpublic school, receives special education services, and who resides in an urban area.
3. The task force shall submit a report, including findings and recommendations for policy changes, to the general assembly by December 1, 2022

² <https://www.legis.iowa.gov/legislation/BillBook?ba=SF2197&ga=89>

Meetings

The Department of Education convened the task force for three working sessions to study and make recommendations. Task force members responded to requests for input between meetings in order to meet the purpose of the task force within the established timelines and provided written comments on the draft report.

At the request of the Iowa Department of Education, the task force was facilitated by technical assistance providers from the National Center for Systemic Improvement at WestEd with facilitation experience and knowledge of IDEA, including the provisions related to students enrolled by their parents in nonpublic schools.

Special Education in Nonpublic Schools

IDEA Provisions Related to Special Education for Students in Nonpublic Schools

The Individuals with Disabilities Education Act (IDEA)³ contains specific requirements regarding State and local responsibilities for providing special education and related services to students with disabilities in nonpublic schools.

Eligible children with disabilities enrolled in nonpublic schools generally fall into two categories: (1) children enrolled by their parents in a public school who are placed in a nonpublic school by their local educational agency (LEA),⁴ as agreed upon by the IEP team as the means of ensuring that FAPE is provided and (2) children enrolled by their parents in a nonpublic school, whether previously enrolled in an LEA or not. Under IDEA, the second group are referred to as parentally-placed private school children.

Under IDEA, children with disabilities are provided an individual entitlement to FAPE. However, under 34 CFR § 300.137(a), “no parentally-placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.” Thus, IDEA does not entitle parentally-placed private school children with the right to FAPE.

For parentally-placed private school children, IDEA requires the following:

- Each LEA must locate, identify, and evaluate all children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA (conduct Child Find).⁵
- Each LEA must consult with private school representatives and representatives of parents of parentally-placed private school children on Child Find, the use of a proportionate share of IDEA funds for parentally-placed private school children, and the provision of special education and related services including which services to be provided to eligible children and which children will receive special education and related services.⁶

³ 20 U.S. C. Section 612(a)(10)(A) and 34 C.F.R. §§ 300.130 through 300.144.

⁴ In Iowa area educational agencies serve as local educational agencies for purposes of IDEA.

⁵ 34 C.F.R. § 300.131.

⁶ 34 C.F.R. § 300.134.

Iowa Requirements and Guidance Related to Special Education for Students in Nonpublic Schools

Going beyond the requirements of IDEA, Iowa Code § 256.12 (2009) creates an individual entitlement to FAPE for parentally-placed private school children, requiring AEAs to

“...make public school services, which shall include special education programs ... available to children attending nonpublic schools in the same manner and to the same extent that they are provided to public school students.”⁷

Iowa is unique in that it is one of only three states that provides FAPE to parentally-placed private school children. *Iowa Students with Disabilities Enrolled in Accredited Nonpublic Schools: A Summary of State and Federal Legal Requirements*, a guidance document available on the Department of Education’s website,⁸ provides details on how IDEA private school requirements apply in Iowa and guidance to maximize participation and cooperation between public and nonpublic schools. The guidance includes the requirement that **each parentally-placed child with a disability in accredited nonpublic schools is entitled to an IEP, developed and implemented in accordance with state and federal law.**

It also clarifies that, just like students enrolled in public schools, parents **who are dissatisfied with IEPs offered to their children with disabilities who are enrolled in accredited nonpublic schools may use the procedural safeguards under IDEA to resolve any disputes.**

That guidance also summarizes the requirements of IDEA and Iowa code regarding the nature and location of special education services (Section VII. Nature and Location of Services):

A. Federal Law. Governing law, which requires LEAs and AEAs to provide a proportionate share of Part B funds to provide special education or related services to eligible students placed by their parents in private schools (including religious schools), places several restrictions on the use of Part B funds.

- Personnel who provide Part B-funded special education or related services in accredited nonpublic schools must meet the same standards and qualifications as personnel employed in public schools; however, elementary and secondary school teachers in accredited nonpublic schools need not meet IDEA’s highly qualified teacher requirement.⁹
- Special education and related services, including materials, must be —secular, neutral, and nonideological.¹⁰

⁷ Iowa Code § 256.12 (2)(a).

⁸<https://educateiowa.gov/sites/default/files/documents/Special%20Education%20and%20Nonpublic%20Schools%20Guidance%20Document.pdf>

⁹ Iowa Admin. Code r. 281-41.138(1).

¹⁰ Id. r. 41.138(4).

- Special education and related services must be provided by an employee of an LEA or AEA, or by contract with the LEA or AEA.¹¹
- Special education and related services may be provided on the private school site, if consistent with state law.¹²
- The AEA or LEA must not use Part B funds to finance the existing level of instruction in a private school or to otherwise benefit the private school.¹³
- The AEA or LEA must use Part B funds to meet the needs of parentally-placed students with disabilities (consistent with the agreement reached after consultation and each child's services plan) but must not use Part B monies to meet the needs of the private school or the "general needs of the students enrolled in the private school."¹⁴
- LEA or AEA personnel may be used to provide services to eligible individuals enrolled in private schools to the extent necessary to provide equitable services and only if "those services are not normally provided by the private school."¹⁵
- The LEA or AEA may use Part B funds to "pay for the services of an employee of a private school to provide" equitable services only if "the employee performs the services outside of his or her regular hours of duty" and LEA or AEA supervises and controls the private school employee's services.¹⁶
- An LEA or AEA may not use Part B funds "for classes that are organized separately on the basis of school enrollment or religion of the children" if "the classes are at the same site" and "the classes include children enrolled in public schools and children enrolled in private schools."¹⁷

B. State Law. Iowa Code section 256.12, in part, concerns where services may be provided to eligible individuals enrolled by their parents in accredited nonpublic schools. Services funded by state and local dollars are not subject to the consultation agreement.

1. The following services may be provided on the premises of a private school, with the permission of the "lawful custodian" of the private school property.
 - a. Health services
 - b. Special education support, and related services provided by AEAs for the purpose of identifying children with disabilities

¹¹ Id. r. 41.138(3).

¹² Id. r. 41.139(1).

¹³ Iowa Admin. Code r. 281—41.141(1).

¹⁴ Id. r. 41.141(2).

¹⁵ Id. r. 41.142(1).

¹⁶ Id. r. 41.142(2).

¹⁷ Id. r. 41.143.

- c. Assistance with physical and communications needs of students with physical disabilities
 - d. Services of an educational interpreter
 - 2. All other services may be provided on the premises of an accredited nonpublic school “at the discretion of the school district or area education agency provider of the service and with the permission of the lawful custodian of the property.”
- C. Interaction of Federal and State Law Regarding Nature and Location of Services. Federal and state laws are closely aligned on what is permitted. Iowa’s rules state that special education services provided under section 256.12 must be “secular, neutral, and nonideological” and comply with the restrictions imposed by federal law, unless a specific provision of section 256.12 requires otherwise.¹⁸
- D. Concerning location of services, federal law allows services to be provided on the site of the accredited nonpublic school if permitted by state law. State law permits those services if agreed, as described above. If no agreement is reached, then services may not be provided under state law and, as a result, federal law.

Data

Nonpublic Schools

To better understand the context surrounding students with disabilities enrolled in nonpublic schools, the task force reviewed data provided by the Department of Education about special education in nonpublic schools. In the 2021-22 school year, there were more than 1600 public schools located in 327 school districts in Iowa. There were 175 accredited nonpublic schools, geographically located in the boundaries of only eighty-six school districts; this means most school districts (241, 73.7%) did not have a nonpublic school in their jurisdiction.

Of the eighty-six districts that do have nonpublic schools in their jurisdiction, nearly all have only one or two nonpublic schools in their jurisdiction.

- Forty-nine (57.0%) have one nonpublic school
- Twenty-two (25.6%) have two nonpublic schools
- Seven (8%) have three nonpublic schools
- Two have five, two have six, one has eight, and one has nine
- Two have eleven nonpublic schools

¹⁸ Iowa Admin. Code r. 281—41.413(1).

To provide additional context and given the assignment of the task force to specifically consider the needs of students enrolled in nonpublic schools in rural areas of the state, the task force also looked at data from the Department of Education and the National Center for Education Statistics (NCES) that classifies each district based on its locale. Table 1 provides definitions for each NCES locale type, number of Iowa school districts in each local type, count of those districts that have at least one private school within their geographic jurisdiction, and the count of private schools within each type of district and per district.

Table 1. Count of Private Schools by District Locale Type (2021-22)

Locale Type and Definition	Number of Districts	Districts with at Least One Nonpublic School (Count)	Nonpublic Schools (Total Count)	Nonpublic Schools per District (Average (Min, Max))
City, Large. Territory inside an urbanized area and inside a principal city with population of 250,000 or more.	0	-	-	-
City, Midsize. Territory inside an urbanized area and inside a principal city with population less than 250,000 and greater than or equal to 100,000.	4	3	27	9 (5, 11)
City, Small. Territory inside an urbanized area and inside a principal city with population less than 100,000.	9	9	38	4.2 (1, 9)
Suburb, Large. Territory outside a principal city and inside an urbanized area with population of 250,000 or more.	9	5	10	2 (1, 3)
Suburb, Midsize. Territory outside a principal city and inside an urbanized area with population less than 250,000 and greater than or equal to 100,000.	4	1	1	1
Suburb, Small. Territory outside a principal city and inside an urbanized area with population less than 100,000.	0	-	-	-
Town, Fringe. Territory inside an urban cluster that is less than or equal to 10 miles from an urbanized area.	9	1	2	2
Town, Distant. Territory inside an urban cluster that is more than 10 miles and less than or equal to 35 miles from an urbanized area.	28	19	27	1.4 (1, 3)
Town, Remote. Territory inside an urban cluster that is more than 35 miles from an urbanized area.	33	18	30	1.7 (1, 3)
Rural, Fringe. Census-defined rural territory that is less than or equal to 5 miles from an urbanized area, as well as rural territory that is less than or equal to 2.5 miles from an urban cluster.	34	9	10	1.1 (1, 2)
Rural, Distant. Census-defined rural territory that is more than 5 miles but less than or equal to 25 miles	119	13	22	1.7 (1, 6)

Locale Type and Definition	Number of Districts	Districts with at Least One Nonpublic School (Count)	Nonpublic Schools (Total Count)	Nonpublic Schools per District (Average (Min, Max)))
from an urbanized area, as well as rural territory that is more than 2.5 miles but less than or equal to 10 miles from an urban cluster.				
Rural, Remote. Census-defined rural territory that is more than 25 miles from an urbanized area and is also more than 10 miles from an urban cluster.	78	8	8	1
Total, Statewide	327	86	175	-

Source: Data provided by the Iowa Department of Education and obtained from NCES.¹⁹

There is a pattern in these data showing a higher proportion of city and town districts with at least one nonpublic school and significantly fewer nonpublic schools in rural areas, with only 13.4% of all LEAs in the combined rural locale types having at least one nonpublic school. The number of schools per district is also lower in rural areas. The task force discussed how this might impact the provision of special education services as well as targeting systemic supports as described in the “Recommendations for Improvement Section” of the report.

As described in the summary of state requirements, many of the responsibilities for nonpublic schools, including to conduct Child Find and meaningful consultation, fall to AEAs. Thus, in addition to looking at districts, it is also important to understand how Iowa’s nonpublic schools are distributed across AEAs. Table 2 provides a summary of the composition of the nine AEAs, including the number of nonpublic schools in each AEA.

Table 2. AEA Composition and Nonpublic Schools (2021-22)

Area Education Agency (AEA)	Number of Districts	Districts with at Least One Nonpublic School (Count)	Nonpublic Schools (Total Count)	Nonpublic Schools per District (Average (Min, Max)))
Central Rivers AEA	53	12	23	1.9 (1, 8)
Grant Wood AEA	32	10	24	2.4 (1, 11)
Great Prairie AEA	32	6	9	1.5 (1, 2)
Green Hills AEA	43	5	6	1.2 (1, 2)
Heartland AEA	53	13	32	2.5 (1, 11)
Keystone AEA	21	10	21	2.1 (1, 6)
Mississippi Bend AEA	21	7	15	2.1 (1, 5)
Northwest AEA	34	15	32	2.1 (1, 9)

¹⁹ District data downloaded from <https://nces.ed.gov/ccd/districtsearch/>

Special Education Support for Students Enrolled in Nonpublic Schools

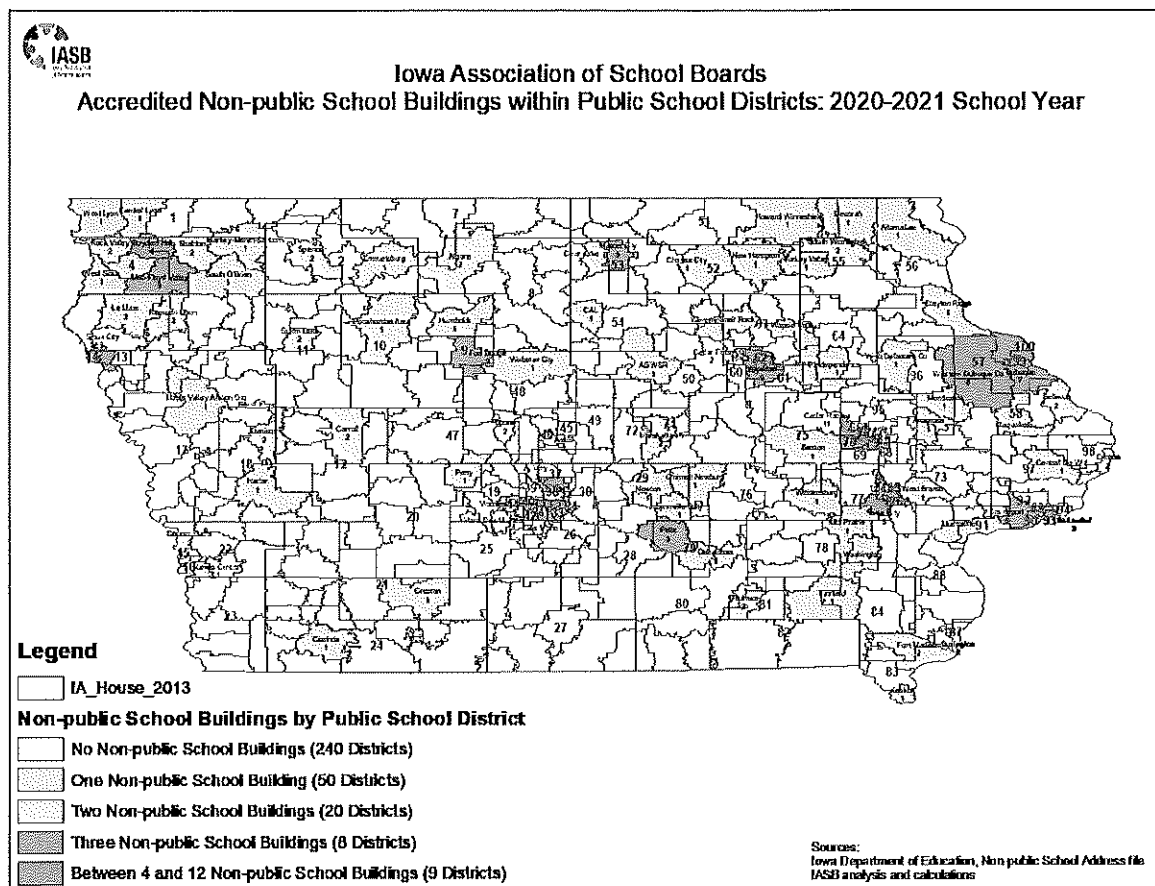
Area Education Agency (AEA)	Number of Districts	Districts with at Least One Nonpublic School (Count)	Nonpublic Schools (Total Count)	Nonpublic Schools per District (Average (Min, Max)))
Prairie Lakes AEA	38	8	13	1.6 (1, 3)
Total, Statewide	327	86	175	-

Source: Data provided by the Iowa Department of Education and obtained from NCES.

Figure 1, a map produced by the Iowa Association of School Boards²⁰ provides a visual representation of similar data. There is variability in both the number of nonpublic schools served by each AEA as well as the proportion of districts within in AEA that have at least one nonpublic school. The variation is likely related to the makeup of individual LEAs, with higher numbers of nonpublic schools in urban centers with a greater population. There are also pockets where nonpublic schools are more concentrated, which may be areas for the state to consider engaging to pilot and get feedback on resources. For example, Northwest AEA appears to have a preponderance of schools and represents a rural area. As the state considers planning for implementation of the recommendations, it should review these data to determine where resources might have the greatest impact.

²⁰ <https://isea.org/wp-content/uploads/2022/02/NonpublicSchools7d41c29c-40d1-48ed-a414-21b5c52afce1.pdf>

Figure 1. Iowa Association of School Boards Accredited Nonpublic School Buildings within Public School Districts: 2020-2021 School Year



Students with Disabilities Enrolled in Nonpublic Schools

It was important for the task force to understand the population of students with disabilities enrolled in nonpublic schools when discussing the need for improvement and making policy and resource recommendations.

Table 3 provides a snapshot of enrollment data across Iowa public and accredited nonpublic schools, showing a much smaller proportion of students with disabilities enrolled in nonpublic schools – 2.19% compared to 13.59% in public schools. The 803 students with an IEP enrolled in nonpublic schools represent 1.25% of students with an IEP in the state. This is consistent with identification rates in other states. Table 4 breaks the enrollment data out for public and nonpublic by age, including the proportion of students enrolled in nonpublic schools.

Table 3. 2021-22 Enrollment Counts in Public and Nonpublic Schools

	All Students Enrolled	Students with an IEP (Count)	Students with an IEP (Proportion)
Public Schools	510,659	69,393	13.59%
Nonpublic Schools	36636	803	2.19%

Source: Data provided by the Iowa Department of Education.

Table 4. 2021-22 Counts of Students with an IEP in Public and Nonpublic Schools, by Age

Age of Students with an IEP	Nonpublic Schools	Public Schools	Proportion of Students with IEPs Enrolled in Nonpublic Schools
3	12	1429	0.8%
4	63	2131	2.9%
5	120	3203	3.6%
6	116	4216	2.7%
7	111	4813	2.3%
8	84	5320	1.6%
9	88	5570	1.6%
10	72	5392	1.3%
11	47	5501	0.8%
12	35	5416	0.6%
13	24	5350	0.4%
14	16	5426	0.3%
15	3	4938	0.1%
16	6	4431	0.1%
17	4	3667	0.1%
18	2	1776	0.1%
19	0	503	0.0%
20	0	279	0.0%
21	0	32	0.0%
Total	803	69,393	1.1%

Source: Data provided by the Iowa Department of Education.

These data show the largest numbers and proportions of students with an IEP enrolled in nonpublic schools for ages 5 and 6 with counts of students declining beginning at age 7. While

the count of students with an IEP in public schools also declines, it is at a much slower rate and the decline does not begin until age 15. Of the 175 nonpublic schools, fifty-five serve students only through grade six or lower, seventy-eight serve students through grade 8, and forty-two serve students through grade 12, including fourteen K-12 schools. The most common grade grouping is PK-8 (fifty-four schools).

The Need for Improvement

After becoming grounded in the context of the federal and state requirements related to and data on students with disabilities enrolled in nonpublic schools, the task force worked to identify and discuss what was going well and where improvement is needed. Task force members identified areas where specific action could be taken to better serve students enrolled in nonpublic schools who receive special education services, including those students who reside in rural areas of the state, as charged by the legislature.

Discussion points on areas for improvement raised by various task force members received input from all task force participants. The task force organized those conversations into eight improvement statements that describe how the state can improve special education services for students enrolled in nonpublic schools. The task force agreed that these interrelated improvement statements reflect the needs of students, schools, LEAs, and AEAs. The statements became the basis for selecting areas for making recommendations and ultimately, the recommendations.

The task force prioritized three statements for development of recommendations by the task force as described below. After the task force agreed on the eight improvement statements (see Summary section for a full listing), members prioritized the statements based on three criteria in order to narrow the focus of the recommendations.

- **Urgency.** How serious is the problem addressed by the improvement statement? How great of a concern is it to the community?
- **Likelihood of Meaningful Impact.** How likely are recommendations related to this to see meaningful action? Will recommendations result in better serving students enrolled in nonpublic schools who receive special education services, especially those students who reside in rural areas of the state?
- **Feasibility.** What is the feasibility of implementation? How much control do the state legislature and state agencies have over this?

There was clear consensus on the three highest priority statements. While this report does not detail recommended actions specifically related to the other five improvement statements, the task force agreed that they are important considerations for better serving students enrolled in nonpublic schools. Task force members also noted the likelihood that actions taken in these areas will very likely impact other improvement statements.

The remainder of this report, for each of the three prioritized improvement statements, includes background information, any available data related to the problem statement, the

detailed recommendations from the task force, and a discussion of any related support and concerns reported by task force members.

Priority 1. IEP and Placement Decisions

To better serve students enrolled in nonpublic schools who receive special education services, the state should:

Ensure adherence to the IDEA requirements related to the provision of FAPE and educational placement decisions for students with a disability enrolled in nonpublic schools, and further expand the understanding of how Iowa law requires the nonpublic school is the school a student would attend if nondisabled for purposes of placement decisions.

Background

For each student who is found eligible for special education and related services, an IEP team composed of the student's parents, teachers, service providers, administrators, and other partners including the student whenever possible, develops the student's individualized education program. After identifying the student's needs, establishing annual goals, and describing the services and supports the student needs, the team is responsible for making a decision about the most appropriate placement for the student to receive their special education and related services.

34 CFR § 300.116 of IDEA and Iowa § 281-41.116 describe the requirements for making this placement decision for each student with a disability. Because Iowa goes beyond IDEA to require the provision of FAPE for students in nonpublic schools, these requirements apply whether a student is enrolled in a public or accredited nonpublic school.

41.116(1) General. In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must ensure the following:

- a. The placement decision shall be made:

- (1) By a group of persons, including the parents and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and
 - (2) In conformity with the LRE provisions of this chapter, including rules 281—41.114(256B,34CFR300) to 281—41.118(256B,34CFR300);
- b. The child's placement shall be:
 - (1) Determined at least annually;
 - (2) Based on the child's IEP; and
 - (3) Located as close as possible to the child's home;
 - c. Unless the IEP of a child with a disability requires some other arrangement, the child shall be educated in the school that he or she would attend if nondisabled;
 - d. In selecting the LRE, the agency shall consider any potential harmful effect on the child or on the quality of services that he or she needs; and
 - e. A child with a disability shall not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.

41.116(4) Special considerations. The team establishing the eligible individual's placement must answer the following questions.

- a. Questions concerning least restrictive environment. When developing an eligible individual's IEP and placement, the team shall consider the following questions, as well as any other factor appropriate under the circumstances, regarding the provision of special education and related services:
 - (1) What accommodations, modifications and adaptations does the individual require to be successful in a general education environment?
 - (2) Why is it not possible for these accommodations, modifications and adaptations to be provided within the general education environment?
 - (3) What supports are needed to assist the teacher and other personnel in providing these accommodations, modifications and adaptations?
 - (4) How will receipt of special education services and activities in the general education environment impact this individual?
 - (5) How will provision of special education services and activities in the general education environment impact other students?
- b. Additional questions concerning special school placement. When some or all of an eligible individual's special education is to be provided in a special school, the individual's IEP, or an associated or attached document, shall include specific answers to the following additional four questions:

- (1) What are the reasons the eligible individual cannot be provided an education program in an integrated school setting?
- (2) What supplementary aids and supports are needed to support the eligible individual in the special education program?
- (3) Why is it not possible for these aids and supports to be provided in an integrated setting?
- (4) What is the continuum of placements and services available for the eligible individual?

These regulations provide a framework for the placement decision and these questions are expected to be discussed during the placement decisions for each student at least annually. However, task force members, including parents, were not quickly familiar with this framework. The task force recognized that the policy is sound and includes questions that can ensure sufficient consideration is given to different placements but agreed that additional supports are needed to ensure these requirements are implemented as intended.

While the requirements clearly state that the IEP team must consider the school a child would attend if nondisabled unless the IEP requires otherwise (Iowa § 281-41.116(1)(c)), both parent and administrator members of the task force shared that the nonpublic school is not always considered as a starting place for IEP team placement decisions or as a potential placement for a student. The generally accepted national interpretation of the IDEA regulation requiring the student to be served in the school he/she would otherwise attend if not disabled is that it refers to the neighborhood school i.e., public school.

Parents reported that placement decisions are not always inclusive of parent and student voice and expressed frustration that the LEA ultimately has discretion to make the final decision in the case of a disagreement. If parents wish to dispute that decision, they must do so through formal dispute resolution processes.

Students enrolled in nonpublic schools do have the same procedural safeguards and rights to dispute resolutions when placement decisions result in disagreements within public schools as well. While families are aware of the opportunity to pursue mediation, a state complaint, or a due process hearing to resolve disagreements, the task force agreed that there is a need for up-front supports that will promote a positive relationship and lead to constructive conversations rather than waiting until a disagreement has happened to provide supports.

The task force discussed the need for all IEP team members to be prepared for discussions about placement, including for nonpublic schools to be prepared to describe the supports they provide that can be supplemented by special education and related services. Task force members reported that disagreements arise when the student's parent would prefer the

student to receive special education services in the nonpublic school, but it is more reasonable for the services to be provided in the public school.

Anecdotally, both parents and administrators shared instances of placement decisions being made that both allow students to receive services and continue to attend the nonpublic school, but such considerations of available options are not yet standard and task force members report that they are very dependent on relationships between the public and nonpublic schools or are undertaken due to strong advocacy by parents. No data, however, were available to quantify how great of an issue this is and for how many students the family disagreed with the placement decision made by the LEA. Available dispute resolution data have not shown that this is an issue about which parents are seeking assistance through the formal processes provided under IDEA.

Recommendations

Task force members agreed that the current requirements appear to be sufficient but supports are needed for all members of the IEP team to improve the processes for making and regularly revisiting placement decisions. The task force believes the recommended actions will improve family and student experience and create more opportunities for innovation in how public and nonpublic entities work together to serve students.

Recommendation 1: Revise Iowa administrative code relative to placement decisions to increase understanding of the requirement that the nonpublic school be considered as a placement option.

Amend Iowa § 281-41.116(1)(c) to include the highlighted language:

- Unless the IEP of a child with a disability requires some other arrangement, the child shall be educated in the school that he or she would attend if nondisabled, **including an accredited nonpublic school where the child is enrolled; ...**

While this may be implied in the existing language, general interpretation of the federal language is limited to public schools. Changing the Iowa code to explicitly include accredited nonpublic schools as the school the child would attend if nondisabled should be permissible since Iowa code extends the offer of FAPE to students with disabilities enrolled by their parents in accredited nonpublic schools. This change to code can serve as a signal to IEP teams that the IEP team must consider and discuss the supports needed for the student to receive special education services in their nonpublic school as part of each placement decision.

Resources, Responsibility, and Timeline for Implementation. This recommendation does not require the allocation of new resources and actions can be taken immediately. Resources for informing IEP team members of the change and expected compliance with the requirements around placement decisions are included in Recommendation 3. The recommendation requires a rule change which the Department of Education can initiate.

Recommendation 2: Establish processes for IEP facilitation to assist IEP teams with decisions regarding FAPE, and placement for students enrolled in nonpublic schools.

These services are already available through AEAs for students in public schools; however, facilitators trained in the nuanced differences between public and nonpublic schools would ensure consistency and accuracy of information and help reduce unnecessary tensions and conflict. The task force recommends providing additional funding for IEP meeting facilitators who are specifically trained and available to attend IEP meetings for students enrolled in nonpublic schools, prioritizing meetings where FAPE and placement decisions are made. IEP facilitation must be offered to parents in advance of IEP meetings when decisions are being made and not just as a result of disagreement.

The task force recommends these facilitators be trained and funded through the state and that they are not LEA or AEA employees to ensure an understanding of the nuanced differences between public and nonpublic schools. To meet the needs of IEP teams in rural areas of the state, the mechanism for virtual meeting facilitation could be made more readily available. While not the charge of the task force, members acknowledged that expansion of state facilitated IEPs as an option prior to dispute resolution in AEAs would benefit placement decisions for students in public schools as well.

Resources, Responsibility, and Timeline for Implementation. This recommendation requires a resource allocation by the legislature to be overseen by the state. The Department of Education should be responsible for training and developing materials for use by facilitators including the guidance and resources in Recommendation 3. The Department should also develop a process for informing parents, AEAs, and LEAs on how to request facilitation. The task force recommends trained facilitators be in place and available to attend IEP meetings by the start of the 2023-24 school year. This process should be reviewed after two years of implementation to determine effectiveness.

Recommendation 3: Provide professional learning and other support materials and tools for IEP teams, including students, families, teachers service providers, and administrators of both public and nonpublic schools, to understand IDEA-required processes relevant to nonpublic school students and to promote informed participation in IEP meetings of students served in nonpublic schools.

The Department of Education and its partners should conduct training and provide guidance on placement decision processes and documentation to ensure all team members know what is required by IDEA and Iowa code and how it should be implemented.

Training and resources should include, at a minimum:

- Scripts and guiding questions for IEP teams to ensure all processes and requirements are being followed related to placement decisions, including answering the questions

required by current law and ensuring placement decisions are revisited at least annually if not more regularly.

- Resources (tools and guidance) for all members of the IEP team to help each understand their roles and responsibilities. Family and student guidance should be developed with input from students' families.
- Training should be available for each AEA and each LEA with a nonpublic school in its jurisdiction on the process for making placement decisions for students enrolled in a nonpublic school.

Resources, Responsibility, and Timeline for Implementation. This recommendation may be feasibly implemented within the existing budget and work of the Department of Education, although it may mean prioritizing this work over some other. The Department of Education should be responsible for overseeing the development of resources, in partnership with AEAs, the Nonpublic School Advisory Committee, and Access for Special Kids Resource Center (ASK), the state's parent training and information center. AEAs, LEAs, and accredited nonpublic schools, however, may need additional resources in order to participate in training; for example, extra contract days or substitute pay. The task force recommends initial training and materials be developed by the end of the 2023-24 school year.

Some task force participants requested that these recommendations go further and consider mandating that the final placement decision be at the discretion of the parent. This is not consistent with IDEA or current Iowa code and is not available to parents of students enrolled in public schools. While parents must be a part of the placement decision and have the right to utilize dispute resolution mechanisms to dispute a placement, the task force ultimately decided that this recommendation was not feasible.

While not prioritized for recommendations at this time, another identified need by the task force was increasing families' understandings of their rights and the options for dispute resolution. If the recommended actions in this report do result in more students receiving special education in their nonpublic school, this topic should be revisited. Because the nonpublic school is not required to take on the obligation to provide FAPE and the state does not have authority over the nonpublic school, clear direction will be needed for families on engagement with the AEA or LEA if they are unhappy with any services being provided in or by the nonpublic school.

Priority 2. Ongoing, Meaningful Consultation Between AEAs, LEAs, and Nonpublic Schools

To better serve students enrolled in nonpublic schools who receive special education services, the state should:

Ensure ongoing, meaningful consultation between AEAs and nonpublic schools occurs and that it leads to results that better serve students enrolled in nonpublic schools who receive special education services, especially those students who reside in rural areas of the state.

Background

IDEA (34 CFR § 300.134) and Iowa Administrative code (§ 281—41.134) require timely, meaningful consultation between AEAs, acting as the LEA, and private school representatives and representatives of parents of parentally-placed private school children.

Specifically, Iowa code requires the following:

281—41.134 Consultation. To ensure timely and meaningful consultation, an AEA or, if appropriate, a State Education Agency must consult with private school representatives and representatives of parents of parentally-placed private school children with disabilities during the design and development of special education and related services for the children regarding the following:

41.134(1) Child Find. The Child Find process shall determine: a) How parentally-placed private school children suspected of having a disability can participate equitably; and b) How parents, teachers, and private school officials will be informed of the process.

41.134(2) Proportionate share of funds. An explanation that the proportionate share shall be calculated by the state based on data submitted by the AEA, consistent with rule 281—41.133(256,256B,34CFR300).

41.134(3) Consultation process. The consultation process among the AEA, private school officials, and representatives of parents of parentally-placed private school children with disabilities, including how the process will operate throughout the school year to ensure

that parentally-placed children with disabilities identified through the Child Find process can meaningfully participate in special education and related services.

41.134(4) Provision of special education and related services. How, where, and by whom special education and related services funded by Part B of the Act... will be provided for parentally-placed private school children with disabilities, including a discussion of the following: a. The types of services, including direct services and alternate service delivery mechanisms; b. How special education and related services will be apportioned if funds are insufficient to serve all parentally-placed private school children; c. How and when decisions regarding 41.134(4)“a” and “b” will be made; d. That the consultation process concerns only funds under Part B of the Act, and does not concern special education and related services provided under Iowa Code section 256.12. The consultation process may, but is not required to, include discussions of special education and related services provided under Iowa Code section 256.12.

41.134(5) Written explanation by AEA regarding services. How, if the AEA disagrees with the views of the private school officials on the provision of services or the types of services, whether provided directly or through a contract, the AEA will provide to the private school officials a written explanation of the reasons why the AEA chose not to provide services directly or through a contract.

281—41.135 **Written affirmation.** When timely and meaningful consultation, as required by rule 281—41.134(256,256B,34CFR300), has occurred, the AEA must obtain a written affirmation signed by the representatives of participating private schools. If the representatives do not provide the affirmation within a reasonable period of time, the AEA must forward the documentation of the consultation process to the Department of Education.

The task force explored how this systems level consultation is being used and whether it is implemented consistently in a way that is leading to increased capacity for AEAs, LEAs, and nonpublic schools to work together to better provide special education and related services, especially in rural areas of the state where ongoing relationships are key to being able to work together to create an IEP and services that constitute FAPE.

No formal data were available on the implementation of timely meaningful consulting, but anecdotal data indicate that increased accountability for consultation could benefit systems and staff as well as students. Some existing data can help the task force understand whether consultation is effectively occurring. For example, while it is expected and consistent with other states to have lower identification rates of students with disabilities in nonpublic schools, it is notable that many nonpublic schools do not report having any students with disabilities enrolled. Based on data provided by the Department of Education, of the 175 Iowa nonpublic schools described in the previous analyses, only 139 reported the enrollment of at least one student with an IEP in 2021-22. This is not uncommon and on its own does not indicate that Child Find is not occurring, but it can indicate the need to ensure meaningful consultation is

occurring with those other nonpublic schools, especially related to Child Find processes and how the LEA will conduct Child Find for the students in the nonpublic school.

Additional data that could be used in the future to evaluate the implementation and effectiveness of the required consultation meetings include simple evaluation data from both the nonpublic school representatives and the AEA and LEA representatives, data on the number of students enrolled in nonpublic schools who are evaluated for special education, and data on any joint training or other professional development opportunities for nonpublic and public school personnel.

Task force members reported that consultation is implemented to different degrees across the state and that the process and content of consultation is not consistent across AEAs. For example, AEA and school district representatives report that some nonpublic schools choose not to participate in meaningful consultation when invited. On the other hand, nonpublic school administrators reported that invitations can be inconsistent across AEAs, and the purpose and objectives of meaningful consultation are not always clear. Some nonpublic schools may not understand that consultation is required and the importance of participating even if there are currently no students enrolled in the nonpublic school who are receiving special education. Task force members identified that when LEAs chose to plan and consult with nonpublic schools, individual IEP conversations were easier.

Task force members agreed that new requirements or initiatives around system consultation are not needed, but this is another situation where increased training and accountability around the existing requirements has a high likelihood of improving processes, relationships, and ultimately services for students. Task force members agreed that the consultation process can be better leveraged for resource sharing and capacity building and that more meaningful consultation could lead to greater understanding of each other's systems and thus fewer disagreements during IEP meetings about individual student programs.

Recommendations

Improving systemic, meaningful consultation can be a beneficial prerequisite to meetings about services for individual students. Ongoing consultation throughout the school year and developing relationships appears to be actions that can especially be impactful in rural areas of the state, where there are fewer nonpublic schools and increased opportunities for ingenuity in serving students given limited resources.

Recommendation 4. Develop and provide professional learning and other materials for meaningful consultation for AEAs, LEAs, and nonpublic school representatives.

Similar to the training for IEP teams in Recommendation 3, resources are needed to increase the consistency and efficiency of the consultative process between AEAs and nonpublic schools. The training and consultation materials could include:

- Updated guidance on expectations for the consultative processes and what is required to be discussed through consultation.
- Tools for conducting efficient consultation including invitation templates, a calendar and agendas for consultation throughout the year, and scripts and checklists to ensure all required content is discussed.
- A template for a nonpublic school, LEA, or AEA, to assess and document specific supports and systems that are in place that will increase the understanding of the continuum of services that could be available in part through the nonpublic school. This should include prompts for describing the school's multi-tiered system of supports or other approach to differentiating instruction and the curricular standards used by a school or schools.

Resources, Responsibility, and Timeline for Implementation. This recommendation may be feasibly implemented within the existing budget and work of the Department of Education. The Department of Education should be responsible for overseeing the development of resources, but the task force recommends that representatives from AEAs, school districts, and nonpublic schools work together to adopt, adapt, and create the needed resources, bringing in other partners as needed. The task force recommends initial training and materials be developed by the end of the 2023-24 school year.

Recommendation 5. Establish sustainable accountability and data collection systems that meet legal requirements and encourage innovative models for meeting the needs of students.

The Department of Education has recently launched a new IEP system (ACHIEVE). The system will allow for more rich, detailed data that will be more easily disaggregated. The Department should review the available data collected in the new system and identify the data to be used for continuous improvement within its system of general supervision. The Department should make these data available to AEAs and LEAs to be used in their own continuous improvement efforts to better serve students with disabilities in nonpublic schools.

Resources, Responsibility, and Timeline for Implementation. This recommendation does not require additional resources but suggests the Department of Education prioritize these requirements for monitoring and special education reviews in place of other requirements. This recommendation should be implemented as soon as the data are available.

Priority 3. Identification and Promotion of Successful Models and Strategies

To better serve students enrolled in nonpublic schools who receive special education services, the state should:

Improve awareness and use of successful models and strategies for providing special education to students enrolled in nonpublic schools, highlighting strategies that can be used in rural settings.

Background

While the first two priority areas address meeting existing requirements of federal and state law to improve processes, the task force also prioritized the exploration, creation, and dissemination of strategies and models for effectively and efficiently providing special education to students enrolled in nonpublic schools. While there is significant potential impact from the first two priority areas, they do not address the innovation and evaluation that will be needed as IEP teams explore new models for providing special education.

Very little data or documentation is available about the models used for the provision of special education to students enrolled in nonpublic schools. Current models are anecdotally reported to be successful based on parent satisfaction that the student is able to attend the school they would attend if nondisabled (the nonpublic school). Data on successful models from a national perspective are not available since Iowa is one of only three states that offers the provision of FAPE to parentally-placed private school students.

Recommendation

Recommendation 6. Develop an implementation plan for identifying, evaluating, and promoting strategies and models for providing special education and related services with and in nonpublic schools that improve the experiences and outcomes for students with disabilities. Establish sustainable accountability and data collection systems that meet legal requirements and encourage innovative models for meeting the needs of students with disabilities.

The design and implementation of the plan should be led by an oversight team that will need task teams to support the work over multiple years. The task force recommends directing the

Department of Education's Special Education team to lead this work in partnership with the Nonpublic School Advisory Committee, AEAs, and school districts.

To identify successful, replicable models, the work should focus on current student-, team-, and system-level practices including:

- Student-level instructional strategies and innovative practices, especially considering factors that are unique to nonpublic schools that may allow or require different strategies (e.g., small class sizes, teacher capacity and experience, scheduling flexibility).
- IEP team-level practices including FAPE and placement decisions for individual students.
- System-level practices such as consultation, coordination, and resource sharing between the public and nonpublic school systems.

The task force recommends funding a series of innovation and model demonstration projects to incentivize innovation and to ensure evaluation data are provided to inform future decision-making.

Findings from this work should be incorporated into the professional learning materials and other strategies discussed previously. During full implementation, the plan must also consider sustainability. Eventually, best practices for serving students in nonpublic schools should become a part of the state's ongoing technical assistance and accountability systems.

Resources, Responsibility, and Timeline for Implementation. This recommendation will require fiscal resources for the funding of the identification, standardization, and replication of successful models. The Department of Education should facilitate this process with the assistance of the stakeholders mentioned above. This process should begin with the identification of strategies no later than the 2023-24 school year.

Conclusion

Members of the task force represented a variety of perspectives and experiences related to the provision of special education services in public and accredited nonpublic settings. Their perspectives and experiences evoked rich discussion related to the charge of the legislature: to study and make recommendations regarding how to better serve students enrolled in nonpublic schools who receive special education services especially those students who reside in rural areas of the state.

The recommendations listed in this report represent solutions that all members could support. In some instances, members might have preferred stronger recommendations but agreed that their preference might not be feasible. For example, some members would have preferred mandating that the final placement decision be at the discretion of the parent of the student enrolled in an accredited nonpublic school. Through discussion and deeper understanding of the limitations set in federal law, the task force ultimately decided that this recommendation was not feasible. Other members would have liked stronger language requiring nonpublic school representatives to have a deeper understanding of IDEA regulations. Again, through discussion the task force decided to make professional learning available but not mandated. As a result of this collaborative problem-solving, the majority of the task force's recommendations can be done without the need for a policy change or additional resources (see Table 5 below). Indeed, accomplishment of the recommendations will address some of the improvement statements that were identified but not prioritized for this report:

- Ensure parents and other stakeholders understand the rights of a student with a disability, including that the student may still be counted as a student with a disability if the family does not accept the AEA or school district's offer of FAPE.
- Develop accountability to ensure students in public and accredited nonpublic schools receive special education programs and services "in the same manner and to the same extent that they are provided to public school students."
- Better define the roles and responsibilities of LEAs, AEAs, and nonpublic schools related to Child Find and provision of FAPE.
- Increase understanding of public school funding regulations and restrictions and funding nonpublic schools.
- Fully fund IDEA in order to meet the needs of students receiving special education services.

Table 5. Conclusion of Recommendations, Responsibility, Timelines and Resources

Recommendation	Responsibility	Timeline	Additional Resources
Recommendation 1: Revise Iowa administrative rule relative to placement decisions to increase understanding of the requirement that the nonpublic school be considered as a placement option.	Iowa Department of Education	2022-2023 school year	None
Recommendation 2: Establish processes for IEP facilitation to assist IEP teams with decisions regarding FAPE and placement for students enrolled in nonpublic schools.	Iowa Department of Education	2023-24 school year	Additional funding for IEP facilitators
Recommendation 3: Provide professional learning and other support materials and tools for IEP teams, including students, families, teachers service providers, and administrators of both public and nonpublic schools, to understand IDEA-required processes relevant to nonpublic school students and to promote informed participation in IEP meetings of students served in nonpublic schools.	Iowa Department of Education, AEAs, Accredited Nonpublic Schools, Nonpublic Advisory Committee	Development by the end of 2023-24 school year, Ongoing implementation after that	None
Recommendation 4: Develop and provide professional learning and other materials for meaningful consultation for AEAs, LEAs, and nonpublic school representatives.	Iowa Department of Education, AEAs, Accredited Nonpublic Schools, Nonpublic Advisory Committee	Development by the end of 2023-24 school year, Ongoing implementation after that	None

Recommendation	Responsibility	Timeline	Additional Resources
Recommendation 5: Establish sustainable accountability and data collection systems that meet legal requirements and encourage innovative models for meeting the needs of students.	Iowa Department of Education	2024-25 school year	None
Recommendation 6: Develop an implementation plan for identifying, evaluating, and promoting strategies and models for providing special education and related services with and in nonpublic schools that improve the experiences and outcomes for students with disabilities	Iowa Department of Education	Identification 2023-24 school year Implementation 2024-25 school year Replication/dissemination 2025-26 school year	Incentive funds