



## IOWA DEPARTMENT OF EDUCATION

### *Children with Disabilities and Participation in 21st Century Community Learning Center Programs*

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The Iowa Department of Education (“Department”) has received questions about the participation of children with disabilities in 21st Century Community Learning Center (“21CCLC”) programs. The purpose of this guidance is to set clear expectations.

21CCLC programs are funded by the United States Department of Education. For that reason, Section 504 of the Rehabilitation Act applies to the entities operating the programs. If a public school district or AEA operates or partners to operate a 21CCLC program, additional provisions of the Individuals with Disabilities Education Act (“IDEA”) apply for children who are IDEA-eligible.

Under Section 504, a child with a disability is entitled to an equal opportunity to participate in 21CCLC programs. 34 C.F.R. § 104.37. If a school or AEA operates or partners to operate a 21CCLC program, a parallel provision applies for children who are IDEA-eligible. *Id.* § 300.107. 21CCLC programs must not discriminate on the basis of disability, and must provide accommodations, modifications, and supports necessary to allow children with disabilities an equal opportunity for participation. Such accommodations, modifications, and supports must be at no cost to the child’s family.

If the child is IDEA-eligible, the child’s IEP team is to consider whether the child needs “supplementary aids and services” and “program modifications or supports for school personnel” necessary for the child to “participate in extracurricular and other nonacademic activities.” Iowa Admin. Code. r. 281—41.320(1). A 21CCLC program operated by or with a district or AEA would meet the IDEA definition of “extracurricular and other nonacademic activities.” *Id.* r. 281—41.107. The district must insure that 21CCLC staff are aware of these accommodations, modifications, and supports, including how to implement them. *Id.* r. 281—41.323(4).

If these accommodations, modifications, and supports are listed on the IEP, then the district or AEA may use special education resources to provide them. If a child’s accommodations, modifications, and supports are not listed on an IEP, they are supported with 21CCLC funds, other agency funds, or, if a school district sponsors or partners with the program, general funds.

If an IDEA-eligible or 504-eligible child, even with the provision of supplementary aids and services, is unable to participate in 21CCLC programming or is substantially disruptive to the 21CCLC program, then the child’s participation in the 21CCLC is not appropriate. Disability law would exclude children who pose a “direct threat” to others or whose presence would be “a fundamental alteration” of the program. In that case, however, the child’s IEP or 504 Team will determine the nature and extent of the alternative programming, if any, that the child will receive.

It is important that 21CCLC staff participate, when appropriate, in IEP or 504 meetings. If schedules are a problem, the 21CCLC staff may participate remotely, such as by conference call. The cost of 21CCLC staff participation in IEP or 504 Team meetings is an appropriate use of 21CCLC funds.

The following examples illustrate these concepts.

1. Abby, a 504-eligible student, has asthma and wants to participate in a 21CCLC program. The program operator says that Abby will not be able to participate because of “liability issues.” This is impermissible disability discrimination, because the program operator did not consider what actions to take, if any actions are necessary, to provide Abby with an equal opportunity for participation in 21CCLC programming.
2. Benjamin is blind and has an IEP. He needs text in alternate format. He wants to participate in a 21CCLC program. The program has stated that Benjamin’s parents must pay for the alternate

formats for 21CCLC written materials. This is improper cost-shifting to the parent. Any excess costs must be paid by either the 21CCLC program or from IDEA funds, depending on the content of Benjamin's IEP.

3. Carlos has an IEP that provides for a 1:1 associate to assist with complex academic tasks. The IEP team determines that Carlos's 1:1 associate is not necessary during 21CCLC programming for Carlos to have an equal opportunity for participation. The 1:1 associate need not be provided during Carlos's 21CCLC participation.

4. Darla has an IEP that provides for a 1:1 associate to assist with health and behavioral needs. The IEP team determines that Darla needs the 1:1 associate to participate in 21CCLC programming. The 1:1 associate must be provided to afford Darla an equal opportunity for participation in 21CCLC programming.

5. Erik has an IEP because of severe challenging behaviors. During an attempt to participate in 21CCLC programming in which all IEP supplementary aids and services were provided and implemented (including a specially trained 1:1 associate), Erik injured a staff member and two other students. In this case, Erik's participation in 21CCLC programming is not appropriate because he poses a direct threat to others.

6. Frederica has a 504 Plan because of ADHD. She requires occasional redirection by adults. Her presence does not fundamentally alter the 21CCLC programming or pose a direct threat. She remains eligible to participate in 21CCLC programming.

The United States Department of Education has released recent guidance documents that provide more detail on the intersections of Section 504, the IDEA, and the Americans with Disabilities Act with 21CCLC programs. That guidance is available at the following links:

LINK 1- <https://www.educateiowa.gov/pk-12/title-programs/title-iv-part-b-21st-century-community-learning-centers>

LINK 2- <https://www.educateiowa.gov/pk-12/special-education/special-education-state-guidance>

For more information, contact -Vic Jaras vic.jaras@iowa.gov