



Students with Disabilities Parentally Placed in Nonpublic Elementary or Secondary Schools

VESID Special Education Services
New York State Education Department
October 2007



FINAL REGULATIONS

34 CFR §§300.130-300.144 -
Requirements for children with
disabilities enrolled by their parents in
private (nonpublic) schools



NYS Law

- Section 3602-c of the Education Law as amended by Chapter 378 of the Laws of 2007



Terms defined:

- District of location

- School district within whose boundaries a nonpublic elementary or secondary school is located

- District of residence

- School district where the student legally resides

- Elementary or secondary school

- School providing an education program to students in one or more grades K-12



Does not apply to students with disabilities...

- In private schools placed by public agencies
- Enrolled in Charter Schools
- Home schooled by their parents
- In private day care or preschool programs
- Enrolled by their parents in public schools outside of their district of residence
- Parentally placed in drug rehabilitation centers or hospitals



District of Location

- Child find, including evaluations
- Consultation with nonpublic school and parent representatives
- CSE meetings
- Eligibility and recommendations for services
- Equitable provision of services
- Expenditure of proportionate share of federal funds
- Data collection and reporting

“Parentally-Placed” — Child Find

How are "parentally-placed" children suspected of having a disability located, identified, and evaluated?

Not New in IDEA:
Child find

New in IDEA:

Responsibility to conduct child find in nonpublic schools now resides with the **LEA where the nonpublic school is located**



“Parentally-Placed”—Child Find

Nonpublic School



Produced by NICHY
2007

Child Find
Process

Evaluation
Procedures

Child Find
Activities

Completed in a time period
comparable to that for
public school children

Same as procedures
for public school children

Similar to activities
for public school children

“parentally-Placed”—parent Consent

May a "parentally-placed" child with disabilities be evaluated without the parent's consent?



No—

The LEA may not override a parent's refusal to consent to the evaluation or a parent's failure to respond to LEA's request to evaluate the child



Consultation

How are decisions made about services to be provided to “parentally placed” children with disabilities?

Each LEA must consult:

- with nonpublic school representatives and representatives of parents of “parentally placed” children with disabilities
- in timely and meaningful way
- on key issues affecting the ability of eligible children to participate equitably in IDEA-funded special education and related services

“Parentally-Placed”—consultation

What must the consultation process involve?

- Child find
- Determining the proportionate share of IDEA funds available
- Determining the consultation process to be used
- How, where, and by whom services will be provided
- Disagreement process for LEA





What records on consultation must an LEA maintain?

- LEA must obtain a written affirmation signed by the representatives of participating nonpublic schools.
- If representatives do not provide that affirmation within reasonable period of time, LEA must forward documentation of consultation process to the SEA (NYSED).



Provision of Special Education Services

NYS Residents

- **Individualized Education Services Program**

Non-NYS Residents

- **Services Plan**



NYS Resident Students

- IESP – Individualized Education Services Program
 - Based on student needs
 - Developed by CSE
 - Same contents as IEP

- Parents request services, in writing, by June 1 of the preceding year to the district of location
 - Exceptions to June 1 date:
 - Student first identified after June 1 but before April 1 – can request services within 30 days after eligibility is determined.



Provision of services

- **Equitable basis**

- Compared to special education programs and services provided other students with disabilities attending public and nonpublic schools located within the school district

Transition 2007-08

- District of residence sends IEP to district of location, with consent of parent
- IEP deemed IESP, unless district of location CSE meets to develop a new IESP
- If evaluation started in district of residence, can be shared with district of location who can adopt, in whole or in part, evaluation conducted in other district
- 2006-07 IEPs binding on district of residence
- 2007 – parent has 30 days from date law goes into effect to request in writing services from the district of location.

Students who are not NYS residents

■ Services Plan (SP)

- Based on the proportionate share of federal dollars
- Determined through the consultation process
- No FAPE entitlement
- No process for district of location to recover costs for evaluations or CSE
- Due process for evaluations only

Transportation

- NYS - district of residence transports student to and from the nonpublic school – 15 miles/district policy
- Parent requests transportation to district of residence by April 1
- If student needs transportation in order to receive special education services, district of location must provide.
 - Federal IDEA dollars may be used for this purpose



Protecting Privacy –

Parent consent required before:

- Sharing student-specific special education information between district of residence and district of location

Due Process

- Residents of NYS can use the due process procedures to resolve disputes for child find and services.
- Non NYS residents can use due procedures for evaluations and eligibility determinations only.
- Due process complaint notice goes to district of location
 - Unless parent is disputing a district of residence's offer of FAPE (IEP)

Recovering of costs

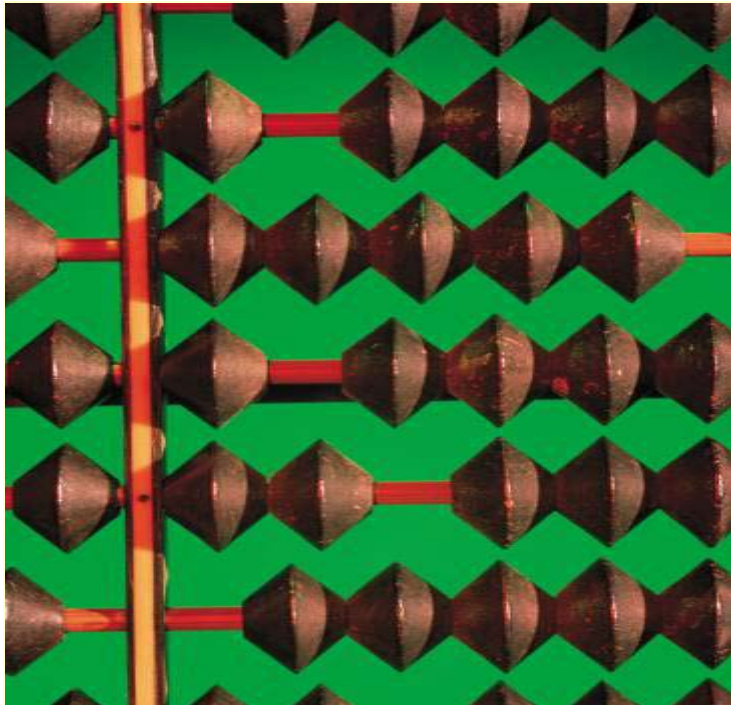
- District of location may charge (bill) district of residence for actual costs for:
 - Evaluation
 - CSE administration
 - Services

Provided the parent has consented for the district of location and district of residence to share special education information about their child.

- If no consent, district can submit claim to SED on form prescribed by the Commissioner.

“Parentally-Placed” — Reporting

What specific child count information must the LEA maintain and report to the SEA?



Number of "parentally-placed" children with disabilities:

- evaluated
- determined to be “children with disabilities” under Part B
- provided equitable services



Proportionate Share of IDEA Federal Funds for Parentally Placed Students with Disabilities in Nonpublic Schools

VESID has posted each school district's
proportionate share -

<http://www.vesid.nysed.gov/sedcar/federal.htm>

“Parentally-Placed”—Expenditures

Two New Fiscal Provisions



Carrying over or obligating
unspent proportionate share \$\$
from one year to the next year

*Supplementing, not
supplanting* Federal \$\$
for "parentally-placed"
children with disabilities



“Parentally-Placed”—Additional Issues



- Benefits to private schools?
- Control / payment of funds, including property, equipment, and supplies?
- Costs of repairs, remodeling, or construction?