


3. Selected Office of the State Superintendent Policies (online at <https://osse.dc.gov/service/specialized-education-local-policies>)

- a. OSSE Comprehensive Child Find System (March 2010)
- b. OSSE IEP Process Policy and Memo (August 2011)
- c. OSSE Final IEP Amendment Policy (January 2014)
- d. OSSE Related Services Policy (January 2010)
- e. Extended School Year (ESY)
 - i. OSSE ESY Services Policy (March 2011)
 - ii. OSSE ESY Framework Guidance Tool
 - iii. OSSE ESY FAQ Guidance (February 2012)
- f. OSSE Least Restrictive Environment (LRE) Policy (March 2009)
- g. OSSE Secondary Transition Policy (January 2010)
- h. OSSE Special Education Transportation Services Policy
 - i. OSSE Special Education Transportation Services Policy Memo (July 2014)
 - ii. OSSE Special Education Transportation Services Policy (July 2014)
- i. OSSE Placement Policies
 - i. OSSE Policies and Procedures for Placement Review (January 2010)
 - ii. OSSE Policies and Procedures for Placement Review – Parent Guide (January 2012)
 - iii. OSSE Policies and Procedures for Placement Review- Guidance (April 2010)
- j. OSSE IEP Implementation for Transfer Students Policy (December 2014)

March 22, 2010

(X) ACTION REQUIRED
() INFORMATIONAL

TO: Child and Family Services Agency
Department of Mental Health
Department of Health
Department of Health Care Finance
Chancellor, District of Columbia Public Schools (DCPS)
Public Charter School Board
Public Charter School Directors
Principals, DCPS

FROM: Kerri L. Briggs, Ph.D. 
State Superintendent of Education

RE: Comprehensive Child Find System

CONTACTS: Amy Maisterra, Chief of Staff
Department of Special Education
Email: amy.maisterra@dc.gov
(202) 481-3757
Or
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Department of Special Education
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This Memorandum serves to clarify what is required in order to ensure that the district has in place a comprehensive child find system for children from birth through age 21, as required in the Individuals with Disabilities Education Act (IDEA), its implementing federal regulations, the District of Columbia Code, and Title 5 of the District of Columbia Municipal Regulations (DCMR). This Memorandum supersedes all previous policy, memoranda and/or guidance promulgated by the Office of the State Superintendent of Education (OSSE).

With regard to Part B of the IDEA, each Local Education Agency (LEA) must have in place policies and procedures to ensure all children with disabilities and who are in need of special education and related services are identified, located, and evaluated. This includes all children ages three through 21 who are residents of the District: all children who attend public or private schools, are home schooled or are wards of the District. With regard to Part C, the OSSE, as the State Education Agency (SEA) and lead agency for the Part C, Early Intervention Program for Infants and Toddlers with Disabilities under IDEA, is responsible for child find activities for infants and toddlers from birth through age two.

PART C CHILD FIND REQUIREMENTS (Birth through Age Two)

BACKGROUND

The OSSE's Department of Special Education, DC Early Intervention Program (DC EIP), as the lead agency for Part C, is responsible for coordinating the planning and implementation of child find activities for children from birth through age two. With the advice and assistance of the State Interagency Coordinating Council (SICC), DC EIP ensures that a comprehensive system is in place to identify, locate, and evaluate infants and toddlers¹ who are eligible to receive Part C early intervention services in the District of Columbia.²

KEY TERMS/ACTIVITIES

A comprehensive child find system includes the following key components.

Assessment.³ Assessment means the ongoing procedures used by appropriate, qualified personnel throughout the period of a child's eligibility under this part to identify:

1. The child's unique strengths and needs and the services appropriate to meet those needs; and
2. The resources, priorities, and concerns of the family and the supports and services necessary to enhance the family's capacity to meet the developmental needs of their child with a disability.

¹ 34 C.F.R. §§303.7 and 303.16, Infants and toddlers with disabilities means individuals from birth through age two who need early intervention services. To clarify, "birth through age two" is birth up to the child's third birthday.

² 34 C.F.R. §§303.320 and 303.321

³ 34 C.F.R. §303.322

Obtaining Consent. Parental consent means:

1. The parent⁴ has been fully informed of all information relevant to the activity for which consent is being sought, in his or her native language, or other mode of communication.
2. The parent understands and agrees in writing to the proposed activities for which his or her consent is being requested. When an LEA is seeking informed consent, the notice must describe the activities and lists the records, if any, that will be released and to whom.
3. The parent understands that providing consent is voluntary and may be revoked at any time.

Parental consent is required prior to: (a) conducting the initial evaluation and assessment of a child; or (b) initiating the provision of early intervention services. If consent is not given for a full comprehensive, multidisciplinary evaluation, reasonable efforts should be made to ensure that the parent is fully informed of the nature of the evaluation and assessment or the services that would be available, and that the child will not be able to receive the evaluation and assessment or services unless the consent is given.⁵

Determining Eligibility. Eligibility for services is determined by a multidisciplinary team using assessment tools appropriate for this population, obtaining quantifiable measures such as percent of delay. Other less quantifiable criteria will also be considered, such as functional status, recent rate of change, prognosis for change in the near future based on anticipated medical/health factors, and other factors that may be relevant to the needs of that infant or toddler and the family. A child under the age of 36 months who is a District resident is eligible for early intervention services if that child:

1. Has a diagnosed medical condition with a high probability of developmental delay, including, but not limited to, Down's Syndrome, cerebral palsy, autism, visual impairment/blindness, or hearing impaired/deafness; or

⁴ 20 U.S.C. §1401(23). Parent is defined as (a) natural, adoptive, or foster parent of a child; (b) a guardian; (c) and individual acting in the place of a natural or adoptive parent; or (d) an individual assigned by the OSSE to be a surrogate parent.

⁵ 34 C.F.R. §303.404

2. Shows a 50 percent delay in one or more areas of development, including cognition, communication, adaptive social-emotional, or physical (including motor and sensory), or
3. Demonstrates a need for early intervention services through informed Clinical Opinion. Informed Clinical Opinion makes use of qualitative and quantitative information to assist in forming a determination of a child's eligibility regarding difficult-to-measure aspects of current developmental status and the potential need for early intervention services. The use of Informed Clinical Opinion seeks to add information regarding a child's abilities and needs within their natural environment. Natural environment means the settings that are natural or normal for the child's age and their non-disabled peers;⁶ for example, home, neighborhood, or community settings.

Multidisciplinary Team. The composition of the multidisciplinary that determines eligibility depends on the needs of the infant or toddler. A multidisciplinary team is defined as consisting of individuals from two or more disciplines or professions and the parent(s)/family member(s). The team may include a social worker, a special educator or developmental specialist, an occupational therapist, a physical therapist, or a speech- language pathologist. It may also include a nurse, a nutritionist, an audiologist, or a psychologist. The team determines the need for additional specialty evaluations. Each member of the team providing an evaluation of the child or family is responsible for submitting a written report of the evaluation, including any quantifiable results from standardized testing.

Evaluation.⁷ Evaluation means the procedures used by appropriate, qualified personnel to determine a child's initial and continuing eligibility consistent with IDEA definition of "infants and toddlers with disabilities"⁸, including determining the status of the child in each of the developmental areas:

- Cognitive development
- Physical development, including vision and hearing
- Communication development
- Social or emotional development

⁶ 34 C.F.R. §303.18

⁷ 34 C.F.R. §303.322

⁸ 34 C.F.R. §303.16

- Adaptive development

The evaluation is not intended to provide a medical diagnosis (such as an underlying genetic or metabolic disorder) or a developmental diagnosis. The results of the early intervention evaluation, however, may be helpful in guiding further diagnostic medical and developmental evaluations.

REFERRAL

Intake. A written referral to the DC EIP is made by a “primary referral source” which includes, but is not limited to: hospitals, physicians, parents, child care providers, local education agencies, public health facilities, and other governmental agencies serving children and families. The written referral is made when it is suspected that the child is developmentally delayed or has a physical/mental condition highly associated with developmental delay. Prior to submitting a written referral, the primary referral source, if other than the parent, must:

- Provide information to the family regarding the Part C early intervention services and the referral process;
- Provide information to the family on how to access the necessary Part C early intervening services; and
- Assist the family in making sure the referral form is completed correctly and, if supporting documents are required, correctly complete and attach those documents.

A referral may be faxed, mailed, or hand delivered. To request a referral form, the referral source should call the DC EIP central number at (202) 727-3665.

Timeline for Evaluation. Within two business days of receiving the referral, the DC EIP Intake Specialist must contact the family to inform the family of the need for an evaluation, obtain informed parental consent to evaluate and assign an evaluation team. The DC EIP must make reasonable efforts to notify the family and receive consent to ensure the evaluation and assessment, and eligibility meeting are conducted within forty-five (45) days from referral.

THE MULTIDISCIPLINARY EVALUATION AND ASSESSMENT

Each evaluation and assessment must include a timely, comprehensive, multidisciplinary evaluation which identifies the appropriate Part C early intervention services that will assist in the development of the child and provide support to the child's family.⁹ Each evaluation and assessment will include the following components:

1. A review of any available records pertaining to the child's current health and medical status; and
2. An evaluation of the child's level of functioning in each of the following developmental areas:
 - a. Cognitive development;
 - b. Physical development, including vision and hearing;
 - c. Communication development;
 - d. Social or emotional development; and
 - e. Adaptive development.

Family Assessment. The purpose of the family assessment is to determine the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of the child.

1. Any assessment that is conducted must be voluntary on the part of the family.
2. If the assessment is carried out, the assessment must:
 - a. Be conducted by personnel trained to utilize appropriate methods and procedures;
 - b. Be based on information provided by the family through a personal interview; and
 - c. Incorporate the family's description of their strengths and needs related to enhancing their infant or toddler's development.¹⁰

Timelines. The evaluation and initial Individualized Family Service Plan (IFSP) of each child and family must be completed within 45 calendar days of a written referral.¹¹ In

⁹ 34 C.F.R. §303.322. The multidisciplinary evaluation for infants and toddlers is birth through age two. After age two, IDEA Part B evaluation is used to determine eligibility.

¹⁰ 34 C.F.R. §303.322(d)

the event of exceptional family circumstances that make it impossible to complete the evaluation and IFSP within 45 days of referral, (e.g., infant or toddler or family member is ill, family is on vacation, etc.) the evaluation and IFSP will be scheduled as soon as possible and an interim IFSP will be developed to the extent appropriate and consistent with the IFSP requirements.¹²

TARGET POPULATION FOR CHILD FIND

The District of Columbia's early intervention system is responsible for identifying and providing services to children birth through age 2 that are eligible to receive such services. A child under the age of 36 months who is a District resident may be eligible for early intervention services if that child:

1. Has a diagnosed medical condition with a high probability of developmental delay, including, but not limited to, Down's Syndrome, cerebral palsy, autism, visual impairment/blindness, or hearing impaired/deafness;
2. Has a current screening/evaluation demonstrating need or is currently receiving services for a diagnosed condition; or
3. Is at risk for developmental delay.

INTERAGENCY COORDINATION

The Part C Child Find System in the District is a collaborative effort between OSSE and other entities responsible for administering various education, health, and social service programs to children from birth through age 2. Those agencies include, but are not limited to: District of Columbia Public Schools (DCPS), Department of Human Services (DHS), Department of Healthcare Finance (DHCF), Department of Health (DOH), Department of Mental Health (DMH), and the Child and Family Service Administration (CFSA). Together these agencies take steps to ensure that:

1. There will not be unnecessary duplication of efforts by the various agencies involved in the District's child find system; and
2. OSSE will make use of the resources available through each public agency in the District to implement the child find system in an effective manner.

¹¹ 34 C.F.R §303.322(e)

¹² 34 C.F.R §303.322(e)(2)

The use of the Early Intervention Program Part C funds include the following activities: (1) improve collaboration in order to identify and evaluate infants and toddlers with suspected disabilities and/or delays, (2) make referrals to other agencies with available services for such children, (3) ensure that all at risk children are located, evaluated and served in a timely manner, and (4) conduct periodic follow-up reviews to determine if the eligibility status of infants or toddlers previously deemed ineligible has changed. OSSE is responsible for ensuring that a comprehensive child find system is in place that ensures:

1. All children in the District eligible for early intervention services are identified, located, and evaluated for eligibility and provided with service planning as appropriate;
2. An effective method is developed and implemented to determine which children are receiving needed early intervention services;²
3. There is a local community system in place within each designated service area to provide for a timely, comprehensive, multidisciplinary evaluation of each infant or toddler who is referred; and
4. A family-directed identification of the needs of each child's family to appropriately assist in the development of the child is completed.

Public Awareness

The OSSE, as the lead agency for Part C, has established a public awareness program that focuses on early identification of children who are eligible to receive early intervention services. This program includes the preparation and dissemination of information in various forms about the availability of early intervention services in the District to all primary referral sources, especially hospitals and physicians. Specifically, the public awareness program provides general information about the Early Intervention Program, the referral process, the process for gaining access to a comprehensive multi-disciplinary evaluation and other early intervention services, the central provider directory, and the statewide distribution of materials explaining services available in the District, as well as annual child find campaigns, which may

² 34 CFR §303.321

include the use of print and media, and training programs for parents, providers, staff, and others.

Coordination Activities: The Child Find System in the District, with the assistance of the State Interagency Coordinating Council (SICC), shall be coordinated with all other major efforts to locate and identify children conducted by District agencies responsible for administering the various education, health, and social service programs relevant to Part C, and organizations as appropriate, including efforts in the:

1. Child find authorized under Part B of the IDEA;
2. Maternal and Child Health program under Title V of the Social Security Act;
3. Medicaid's Early Periodic Screening, Diagnosis, and Treatment (EPSDT) program under Title XIX of the Social Security Act;
4. Developmental Disabilities Assistance and Bill of Rights Act;
5. Head Start Act; and
6. Supplemental Security Income program under Title XVI of the Social Security Act.¹³

MONITORING COMPLIANCE

OSSE utilizes an effective tracking system to ensure that: 1) there are activities related to referral, evaluation, and initial IFSP, and 2) children served by Part C, *who may be eligible for such preschool services*, transition successfully to Part B to avoid any lapse in service delivery.¹⁴

Part C funds shall be used by OSSE annually to improve collaboration in order to identify and evaluate at-risk children, make referrals to other available services for such children, and to conduct periodic follow-up to determine if the status of the child has changed and may be eligible for early intervention services as provided by Part C. The system enables detailed program information to be collected and aggregated centrally to meet state and federal planning and reporting needs.

OSSE has established systems used to support the data collection, tracking, and reporting needs of the Part C Program, including intake information, health, and developmental status, service coordination, IFSPs, referrals, and service provision. With informed consent from the parents,

¹³ 34 C.F.R §303.321

¹⁴ 34 C.F.R §303.148 (a)(2)(i)

information is shared with other programs serving the child and family.¹⁵ This centralized system of “registering” children and their families receiving early intervention services prevents duplication of services between programs, and tracks children who otherwise might be lost to services.

PARENTAL RIGHTS

During the child find process, a parent holds the same legal rights that apply to every aspect of the special education process. Therefore, when a disagreement occurs regarding evaluation or identification, the parent can request mediation or file a due process complaint. In addition, a parent can file a State complaint if the parent believes a public agency has violated IDEA Part C. For further information on the parents’ rights please refer to the Parent Procedural Safeguards Notice for Part C.

PART B CHILD FIND REQUIREMENTS (Children age 3 through 21)

BACKGROUND

Each Local Education Agency (LEA)¹⁶ must have policies and procedures in effect to ensure that all children with disabilities, regardless of the severity of the disability, and who are in need of special education and related services, are identified, located, and evaluated.¹⁷ Child Find requirements include activities to assist toddlers and their families, who are eligible for Part C early intervening services, in transitioning to Part B special education preschool services when appropriate. This requirement applies to: (1) children who attend private schools located in the District even if the children do not reside in the District,¹⁸ and (2) children residing in the District, including children who attend public or private school, are home schooled, are highly mobile and homeless children, are wards of the District, and/or are suspected of having a disability even though they are advancing from grade to grade.

¹⁵ The referral source must receive consent from the parent to release information to DC Early Intervention Program for the purpose of establishing eligibility for early intervention services.

¹⁶ Because LEA charter schools are not neighborhood schools and do not have geographic boundaries, they are only responsible for child find activities within their LEA. Therefore, DCPS is responsible for all other child find activities for the District of Columbia.

¹⁷ 34 C.F.R. §§300.111(a)(1)(i) and 300.201; DCMR §5-3002.1(d)

¹⁸ 34 C.F.R. §300.131(a). Including children with disabilities who are enrolled by their parents in private, including religious, elementary and secondary schools.

PUBLIC AWARENESS

Each LEA is responsible for conducting public awareness activities sufficient to inform parents and the community concerning the availability of special education and related services and the methods available to request those services and programs. The public notice may be provided through a variety of methods, such as:

- Notices in local newspapers;
- School handbooks and calendars;
- Brochures available in the main office of public and private schools;
- Posting of information in health departments or doctors offices, grocery stores, department stores and other public places;
- Posting of information on the LEA's website;
- Broadcast announcements on the radio or television; and
- Provision of information at parent-teacher conferences.

SCREENING

Child find activities may include some type of screening process to determine whether a child should be referred for an evaluation. For children age 3 through 21, when the LEA does not suspect the child may be disabled and in need of special education and related services, the LEAs should utilize a comprehensive screening process, the result of which is provided to the child's parent. This process includes, but is not limited to: (a) observations in a variety of settings; (b) multi-tiered problem solving approach; (c) parent/family interview(s); and (d) review of attendance and grades. Screenings must be available for children in public schools, private schools, or for children who are home-schooled or who are wards of the District and include the review of whether:

- Appropriate instruction in the general education setting was delivered by qualified personnel;
- Instruction and interventions were provided at varying intensity levels; and
- Progress monitoring data that was collected which reflected the child's progress during instruction

CHILD FIND FOR CHILDREN IN PRIVATE SCHOOL

IDEA requires Child Find activities for children enrolled by their parents in private schools, including religious, elementary schools, and secondary schools located in the school district

served by the LEA.¹⁹ Child Find must include children who are residents and non-residents who may be attending the private school.²⁰ DCPS, as the only LEA with geographical boundaries, is responsible for all Child Find activities for children enrolled by their parents in private school. All Child Find activities must include activities similar to the activities undertaken for children attending public school.²¹ In addition, all Child Find activities (e.g. initial evaluation) must be completed within the same time frame as Child Find activities for children attending public schools.²² DCPS must maintain an accurate count of these children and must also maintain records and provide to the OSSE upon request: (a) the number of children evaluated, (b) the number of children determined to be children with disabilities, and (c) the number of children served.²³

COMPLIANCE MONITORING

Please be advised the OSSE may conduct unannounced monitoring activities to ensure LEA and Early Intervention Program comply with the federal and local law.

ADDITIONAL GUIDANCE

Please direct questions regarding Part C Child Find to Jerri Johnston-Stewart, Early Intervention Program Manager, at (202) 727-5853 or by email at Jerri.Johnston-Stewart@dc.gov. Please direct questions regarding Part B Child Find to Amy Maisterra, Chief of Staff, Department of Special Education at (202) 481-3757 or by email at amy.maisterra@dc.gov.

¹⁹ 34 C.F.R. §300.131(a)

²⁰ 34 C.F.R. §300.151(f)

²¹ 34 C.F.R. §300.151(c)

²² 34 C.F.R. §300.331(e)

²³ 34 C.F.R. §300.131(b)(2) and §300.132(c)



Office of the



State Superintendent of Education

August 30, 2011

Dear LEA Leaders,

Welcome to the start of the 2011-2012 school year! I am thrilled to continue building a strong partnership between OSSE and your LEA – our collaboration is critical to ensuring the success of the children and families that we all serve.

I am very pleased to share with you OSSE's Individualized Education Program (IEP) Process Policy, our first policy release of the year. This policy, effective today, is designed to assist LEAs with addressing concerns identified by both the federal Office of Special Education Programs (OSEP) and the Blackman Jones Evaluation Team regarding current rates of local education agency (LEA) compliance with the Individual with Disabilities Education Act (IDEA). Audited data revealed that student records did not consistently demonstrate that IEP Teams included all of the participants required by the IDEA, and furthermore, that convened IEP Teams did not understand the legal obligations involved in developing compliant IEPs. The attached policy provides the clarifications necessary to improve compliance by:

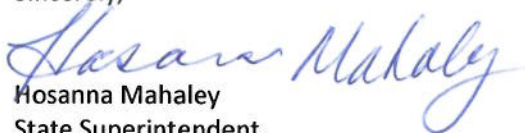
- Restating federally mandated factors of consideration when developing, reviewing and revising an IEP, 34 CFR §300.324(a)(1) and (2) (p. 1-2);
- Distinguishing between IEP Team participation and the legal requirement for parental consent prior to the initial provision of services as required by 34 CFR §300.300(b) (p. 2);
- Specifying explicit categories for mandatory and additional IEP Team participants that align to the intent of 34 CFR §300.321 (p. 2-5);
- Affirming the responsibility of the LEAs to participate in IEP Team meetings convened by nonpublic schools, 34 CFR §300.325(b)(2) (p. 3);
- Restating prior written notice requirements for changes to an IEP, 34 CFR §300.503 (p. 5-6); and
- Establishing standards for the demonstration of sufficient documentation of IEPs, which improves accuracy of student records and supports requirements for the timely transmittal of student records, 34 CFR §300.323(g) (p.7).

Issuance of this policy allows for LEAs to:

- 1) Improve overall compliance with IEP development and implementation;
- 2) Ensure alignment between practice and the upcoming SEDS release;
- 3) Address concerns raised by the Blackman Jones court monitor; and
- 4) Address key Corrective Action Plan (CAP) elements required by OSEP.

I hope that you will circulate the attached policy to all staff upon receipt.

Sincerely,


Hosanna Mahaley
State Superintendent




Office of the State Superintendent of Education

AUGUST 30, 2011

(X) ACTION REQUIRED
() INFORMATIONAL

TO: Local Educational Agencies

CC: Public Charter School Board
De'Shawn Wright, Deputy Mayor of Education

FROM: Hosanna Mahaley, State Superintendent of Education 

RE: Individualized Education Program (IEP) Process Policy

CONTACT: Amy Maisterra, Interim Assistant Superintendent for Special Education
Division of Special Education
Email: Amy.Maisterra@dc.gov
(202) 481-3757
OR
Grace Chien, LEA Policy and Charter Implementation Specialist
Division of Special Education
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INTRODUCTION

The purpose of this Memorandum is to assist local educational agencies (LEAs) with the implementation of the Part B requirements of the Individuals with Disabilities Education Act (IDEA) regarding individualized education programs (IEPs) for students with disabilities. It is the expectation of the Office of the State Superintendent of Education (OSSE) that all LEAs ensure that IEP Teams engage annually in the IEP process to develop compliant IEPs that are timely and include the participation of all appropriate IEP Team members.

MONITORING AND COMPLIANCE

The U.S. Department of Education's Office of Special Education Programs (OSEP) requires that every state education agency (SEA) monitor LEAs to ensure compliance with Part B of the IDEA. A finding of LEA noncompliance by OSSE will result in the requirement to submit an improvement plan containing corrective actions for each area of noncompliance. OSSE may also recommend or require training and technical assistance for LEA staff when crafting corrective actions. All items of noncompliance shall, by federal law, be corrected within one year of the finding; sustained noncompliance by an LEA may result in sanctions that include potential withholding of Part B grant funding.¹ All LEAs shall comply with monitoring requirements established annually by OSSE, which include the collection and submission of both quantitative and qualitative data that support monitoring for regulatory compliance and programmatic quality. Additionally, a subset of LEAs will be selected for OSSE's annual focused monitoring process.

FEDERALLY MANDATED FACTORS OF CONSIDERATION WHEN REVIEWING AND REVISING AN IEP

The IEP process is an opportunity for parents, teachers, LEA personnel, evaluators, and related services providers to pool their collective team knowledge and expertise to ensure that students with disabilities are

¹ 34 C.F.R. §300.604(a)



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provided a free appropriate public education (FAPE) in the least restrictive environment (LRE). Where appropriate, students should be encouraged to participate as members of their IEP Teams in order to contribute feedback and ideas to the design of their programs. Together, IEP Team members develop an effective educational program, enumerated in the IEP document, which results in the delivery of specialized instructional supports, appropriate accommodations, and related services to help a student with disabilities access the curriculum and make meaningful educational progress.

IEP Teams shall consider the following factors when developing, reviewing, and revising an IEP:

- The strengths of the student;
- The concerns of the parents for enhancing the education of the student;
- The results of the initial or most recent evaluation of the student; and
- The academic, developmental, and functional needs of the student.²

When appropriate, the IEP Team shall consider the following additional factors:

- The use of positive behavioral interventions, supports, and other strategies to address student behavior that impedes the student's learning or that of other students;
- The language needs of a student with limited English proficiency as those needs relate to the student's IEP;
- The appropriateness of instruction in Braille or the use of Braille for a student who is blind or visually impaired; the comprehensive language and communication needs of a student who is deaf or hard of hearing; and
- The use of assistive technology devices and services.³

IEP TEAM MEMBER PARTICIPATION AND PARENTAL CONSENT

For the purposes of this policy, the term *participation* is defined as an opportunity for an individual to attend an IEP Team meeting and provide input toward IEP Team consensus. The term *input*, used in the context of an IEP Team meeting, refers to recommendations based on relevant historic and current student data derived from familial, academic, or service-based interactions. In the context of IEP Team meetings, the opportunity to provide input is distinct from unilateral decision-making. Decisions regarding eligibility or designation of special education and related services under Part B shall be made through IEP Team consensus. The term *consensus*, used in the context of an IEP Team meeting, refers to broad agreement reached through group decision-making such that the opinions of all IEP Team members are considered. However, no one team member can prevent the IEP Team from proceeding as a whole if there is general consensus.

IEP Team members demonstrate their participation in the IEP Team meeting by signing the IEP Meeting Participants Section of the IEP document. The signature of any participant, including the parents, does not constitute agreement or disagreement, in whole or in part, with the content of the resulting IEP document. Individual participant disagreement with the IEP Team consensus on any single issue does not prevent the IEP Team from proceeding with the IEP process as a whole or completing the IEP document. LEAs may not begin to provide special education and related services if the parent has not provided consent for the initial provision of services following the initial determination of eligibility.

² 34 C.F.R. §300.324(a)(1)

³ 34 C.F.R. §300.324(a)(2)



Office of the



State Superintendent of Education

PARENTAL DISAGREEMENT AND DISPUTE PROCEDURES

The terms set forth in an annual IEP review are not invalidated, in whole or in part, by disagreement from any participant, including the parent. A parent who disagrees with an IEP Team decision regarding the student's eligibility, evaluation, placement, or terms of service may challenge the decision by exercising the rights afforded to all parents under the Part B procedural safeguards including dispute resolution options such as the state complaint process, due process complaints, and impartial mediation to resolve any disagreements at the LEA level. If disagreement about an IEP Team decision arises after the parent's consent to the initial provision of services and development of the IEP, a parent may revoke consent.⁴ A parent who revokes consent for Part B services does so fully for all special education and related services listed on the student's IEP.⁵

IEP TEAM PARTICIPATION REQUIREMENTS

Mandatory Participants

The term *mandatory participant* refers to an individual whom the LEA shall ensure is included as a member of the IEP Team because he or she fulfills a team role explicitly identified by the IDEA.⁶ The following individuals are mandatory participants:

Parents of the student:⁷ Parents are important members of the IEP Team because, typically, they can offer unique insight regarding the student's strengths and needs, interests, and learning style. Parents can also enhance the student's overall learning experience and performance by providing an educational structure within the family home that is consistent with and builds upon the skills and curriculum that the student is learning at school. To adequately facilitate parent participation, the LEA shall notify parents of the meeting early enough to ensure that they will have an opportunity to attend and schedule the IEP Team meeting at a mutually agreed on time and place.⁸ If neither parent can attend an IEP Team meeting, the meeting may be conducted without parent participation if the LEA exercises reasonable efforts to secure the parent's agreement to participate. *Reasonable efforts* are defined as a minimum of three attempts using multiple modalities (e.g. phone, mailed correspondence, and in-person) by the LEA.⁹ The LEA shall document all attempts to contact the parent in the Special Education Data System (SEDS). The LEA shall also take whatever action necessary to ensure that the parent can understand the discussion and content of the IEP Team meeting, including arranging and providing translation services when needed.¹⁰

General education teacher of the student:¹¹ The general education teacher is an important member of the IEP Team because he or she can serve as a primary resource for information regarding the general education curriculum, positive behavioral interventions and supports, strategies for annual goal attainment, and potential opportunities for inclusion both inside and outside of the classroom.¹² A

⁴ 34 C.F.R. §300.300(b)(4). Note that disagreement about an IEP Team decision is not necessary in order for a parent to revoke consent; a parent may revoke consent at any time for any reason.

⁵ "Under § 300.300(b)(1), parental consent is for the initial provision of special education and related services generally, not for a particular service or services." 73 Fed. Reg. 73011 (December 1, 2008)

⁶ 34 C.F.R. §300.321(a) and (b)

⁷ 34 C.F.R. §300.321(a)(1); the definition of parent can be found at 34 C.F.R. §300.30. The definition of a foster parent is augmented by District of Columbia law at 5 DCMR §E-3001.1.

⁸ 34 C.F.R. §300.322(a)

⁹ 34 C.F.R. §300.322(d); OSSE's Part B Initial Evaluation/Reevaluation Policy (March 22, 2010)

¹⁰ 34 C.F.R. §300.322(e)

¹¹ The LEA must ensure that the IEP Team for each student with a disability includes not less than one regular education teacher of the student if the student is, or may be, participating in the regular education environment. 34 C.F.R. §300.321(a)(2)

¹² 34 C.F.R. §300.320(a)(4); 34 C.F.R. §300.324(a)(3)



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general education teacher's participation is especially important when the IEP Team is considering eligibility under the specific learning disability (SLD) category or a change to the student's existing level of service.

Special education teacher of the student:¹³ The special education teacher is an important member of the IEP Team because he or she can contribute both specific information regarding the individualized needs of the student, and more general information on how to educate students with disabilities based on past teaching experiences. The special education teacher may provide suggestions on how to modify the general curriculum, utilize supplementary aids and services, monitor student progress, and identify appropriate testing accommodations. Additionally, the special education teacher often provides specialized instruction, including instruction that is designated as extended school year (ESY) services.

LEA representative: The LEA representative is an important member of the IEP Team because he or she is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of the student, is knowledgeable about the general education curriculum, and is knowledgeable about the availability of resources of the LEA.¹⁴ The LEA representative is often the head administrator of the LEA's special education program or his or her designee. The LEA representative should have the authority to commit resources and ensure that the services designated in the IEP are provided. (Note: District Charters¹⁵ shall invite a representative from the District of Columbia Public Schools (DCPS) to participate in all IEP Team meetings. DCPS shall respond to a District Charter invitation by participating as the LEA representative or by designating¹⁶ an LEA representative at the District Charter to serve on its behalf. A nonpublic school, serving a District of Columbia student, shall invite the LEA to participate in all the student's IEP Team meetings.¹⁷ The LEA shall participate in all IEP Team meetings for students served by nonpublic schools by attending or at minimum designating an LEA representative at the nonpublic school or program to serve on its behalf.¹⁸)

Individual who can interpret the instructional implications of evaluation results:¹⁹ This individual is an important member of the IEP Team because he or she can accurately assess student's current level of performance, identify the student's areas of need, and make suggestions regarding appropriate strategies to address the student's needs. This individual's participation is especially important when the IEP Team is considering decisions regarding eligibility or a change to the student's educational program due to recent evaluation results.

¹³ The LEA must ensure that the IEP Team for each student with a disability includes not less than one special education teacher of the student, or where appropriate, not less than one special education provider of the student. 34 C.F.R. §300.321(a)(3)

¹⁴ 34 C.F.R. §300.321(a)(4)

¹⁵ District Charters are public charter schools that have elected DCPS as the LEA for special education purposes. D.C. Code §38-1802.02(19)

¹⁶ LEA designated representative must be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities; knowledgeable about the general education curriculum; and knowledgeable about the availability of resources of the LEA. 34 C.F.R. §300.321(a)(4).

¹⁷ An IEP meeting may be initiated and conducted by a nonpublic school at the discretion of the LEA. 34 C.F.R. §300.325(b)

¹⁸ D.C. Code §38-2561.06; 34 C.F.R. §300.325(a) and 5 DCMR §E-3019.9

¹⁹ When appropriate, this participant role may be fulfilled by the general education teacher, special education teacher, LEA representative, a qualified evaluator, related service provider, or other persons with knowledge or expertise regarding the child. 34 C.F.R. §300.321(a)(5)



Permitted Excusal of Mandatory Participants

Mandatory participants may be excused, in whole or in part, from the IEP Team meeting only if the parent and the LEA agree, in writing, that the attendance of the participant is not necessary because the participant's area of the curriculum or related services is not being modified or discussed in the meeting.²⁰ When the meeting involves a modification to or discussion of a mandatory participant's area of the curriculum or related services, the participant may be excused from attending the IEP Team meeting, in whole or in part, only if the parent and the LEA consent to the excusal in writing and the participant submits written input into the development of the IEP prior to the IEP Team meeting.²¹ The LEA is responsible for ensuring that all written input is received prior to the IEP Team meeting, and that all the required documentation is included in the student's special education file in SEDS.

Additional Participants

The term *additional participant* refers to an individual who does not fulfill a team role explicitly identified by the IDEA, but who may become a mandatory participant due to individual student factors or specific circumstances (*i.e.* IEP Team meeting purpose includes specific topics such as: transition; discussion regarding a change to a specific special education service or related service; or discussion about services provided by a nonpublic school or specialized program outside the LEA). If any of these circumstances applies, the LEA shall, with the consent of the parent when necessary, invite the following additional participants to the IEP Team meeting as appropriate:

Student: Generally, a student should be invited, and encouraged to, participate in the IEP Team meeting whenever he or she has input to provide, or whenever otherwise deemed appropriate by the IEP Team.²² The student becomes a mandatory participant if a purpose of the IEP Team meeting is to consider postsecondary goals for the student and the transition services needed to assist the student in reaching those goals.²³ If the student does not attend the IEP Team meeting to discuss secondary transition, the LEA shall take other steps to ensure that the student's preferences and interests are considered, such as allowing the student to submit written input to the IEP Team prior to the occurrence of the meeting.²⁴ Under District of Columbia law, educational rights under IDEA transfer from the parents to the student at age 18, unless there has been a determination under District of Columbia law that the student is not competent.²⁵ The student takes the place of the parent upon the transfer of rights, becoming a mandatory participant thereafter.

Early childhood transition participant: In the case of a student who was previously served under Part C of the IDEA, an invitation to the initial IEP Team meeting shall, at the request of the parent, be sent to the Part C service coordinator or other representatives of the Part C system to assist with the smooth transition to Part B services.²⁶

Secondary transition participant: If a purpose of the IEP Team meeting is to consider postsecondary goals for the student and the transition services needed to assist the student in reaching those goals,

²⁰ 34 C.F.R. §300.321(e)(1)

²¹ 34 C.F.R. §300.321(e)(2)

²² 34 C.F.R. § 300.321(a)(7)

²³ IEP Team consideration of appropriate postsecondary goals and transition services for a student with a disability must begin no later than the first IEP to be in effect when the student turns 16 years old or sooner if determined appropriate by the IEP Team. 34 C.F.R. §300.320(b); 34 C.F.R. §300.321(b)(1); 34 C.F.R. §300.322(b)(2)

²⁴ 34 C.F.R. § 300.321(b)(2)

²⁵ 34 C.F.R. § 300.520(a)(1)(ii); 5 DCMR §E-3023

²⁶ 34 C.F.R. §300.321(f)



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the LEA shall, with the consent of the parents or a student who has reached the age of majority,²⁷ invite a representative of the Rehabilitation Services Administration (RSA)²⁸ and any other participating agency that is likely to be responsible for providing or paying for postsecondary transition services.²⁹

Related service provider:³⁰ A related service provider's participation is critical when the IEP Team is considering a change to the student's service hours. The LEA shall invite the appropriate special education or related service provider to fulfill the mandatory role of the individual who can interpret the instructional implications of evaluation results if the proposed change to service hours is due to recent evaluation or assessment results in that specific service area.

Individual with knowledge and special expertise: At the discretion of the parent or LEA, the IEP Team shall include any individual who the parent or LEA has determined has knowledge or special expertise regarding the student.³¹

PARTICIPATION THROUGH THE IEP AMENDMENT PROCESS

A student's special education needs may change throughout the year. If it becomes necessary to make changes to the IEP after the annual IEP Team meeting occurs during the school year, the IEP Team may decide to convene an IEP Team meeting to amend the IEP, or the parent and the LEA may agree to amend the student's current IEP through written agreement without convening an IEP Team meeting.³²

To amend the IEP through written agreement, the LEA and parent shall complete the Standard IEP Amendment Form found in SEDS to indicate that both parties consent to amending the IEP without convening an IEP Team meeting.³³ A refusal of consent by either party or parent non-responsiveness to an LEA's attempts to obtain parent agreement to amend without convening an IEP Team meeting constitutes a request that the IEP Team convene for the purposes of considering the proposed change. In such circumstances, the LEA shall follow the same invitation and notice procedures required for an annual IEP Team meeting.³⁴

PROVISION OF APPROPRIATE NOTICE TO IEP TEAM MEMBERS

The LEA shall provide prior written notice (PWN) to the parents every time the IEP Team decides to initiate a change or decides against making a change to the student's IEP.³⁵ The PWN shall include:³⁶

1. A description of the action proposed or refused by the LEA;³⁷

²⁷ The age of majority in the District of Columbia is 18 years old. 5 DCMR §E-3023.1

²⁸ OSSE's Secondary Transition Policy requires LEAs, with the consent of the parents or a student who has reached the age of majority, to invite a representative of Rehabilitation Services Administration (RSA) to an IEP Team meeting where secondary transition will be discussed. (January 5, 2010)

²⁹ 34 C.F.R. §300.321(b)(3)

³⁰ 34 C.F.R. §300.321(a)(3) & (a)(6)

³¹ 34 C.F.R. §300.321(a)(6); 34 C.F.R. §300.321(c)

³² 34 C.F.R. §300.324(a)(4)

³³ A parent may propose an IEP amendment by contacting the LEA. The LEA will respond to the parent's request by either consenting to the amendment through written agreement or by sending a letter of invitation to the parent to participate in an IEP Team meeting to discuss the proposed IEP amendment.

³⁴ LEAs may not amend an IEP without convening an IEP Team meeting where the purpose is to discuss and/or make decisions regarding a potential change in least restrictive environment to a nonpublic placement. OSSE's Individualized Education Program Amendment Guidance (April 21, 2010)

³⁵ 34 C.F.R. §300.503(a)

³⁶ 34 C.F.R. §300.503(b)

³⁷ The proposal considered may be a change to the identification, evaluation, or educational placement of the student or the provision of FAPE to the student.



2. An explanation of why the LEA proposes or refuses to take the action;
3. A description of each evaluation procedure, assessment, record, or report the LEA used as a basis for the proposed or refused action;
4. A statement that the parents of a student with a disability have protection under the Part B procedural safeguards;³⁸
5. Resources for parents to contact to obtain assistance in understanding Part B of the IDEA;
6. A description of other options that the IEP Team considered and the reasons why those options were rejected; and
7. A description of other factors which are relevant to the LEA's proposal or refusal.

The PWN shall be sent within a reasonable time³⁹ before the LEA implements the change.⁴⁰ The LEA shall take whatever action is necessary to ensure that the parent understands the PWN, including arranging for translation.⁴¹ LEAs shall provide PWN to all IEP Team members implementing the IEP and the parent, following an amendment to an IEP in the absence of a meeting.⁴²

COMPREHENSIVE IEP REVIEW

The IEP meeting type determines the scope and content that the IEP Team shall review. For IEP Team meetings to develop the initial IEP, an IEP Team shall review all required sections of the IEP document including:

- Present levels of performance and annual goals by area of concern;
- Special education and related services;
- Least restrictive environment (LRE);
- Classroom accommodations and state assessment participation;
- Extended school year; and
- Transition and behavior as appropriate.

For annual IEP Team meetings, the IEP Team shall review all current and new data to update and complete all required sections of the IEP and address any other concerns raised by the parent or other IEP Team members. For IEP Team meetings held to discuss changes to the IEP proposed after the annual IEP Team meeting occurs during the school year, the IEP Team shall review, at minimum, all items identified in the Standard IEP Amendment Form and/or any corresponding letter of invitation, and any concerns expressed by the parent prior to or at the meeting. Any additional proposed amendments that are agreed upon or refused, but not initially specified in the Standard Amendment Form shall be documented in the PWN.

IEP DOCUMENTATION REQUIREMENTS

Once the IEP Team has reviewed and come to a consensus on all required items according to meeting type, the IEP Team shall complete each required section of the IEP in SEDS (including the documentation of all eligibility and service decisions). The resulting finalized draft of the IEP and all corresponding documentation shall be captured in or uploaded in SEDS within 5 business days of the IEP Team meeting (or completion of the IEP amendment process as appropriate).⁴³ All LEAs are required to update student files in SEDS regularly

³⁸ If the PWN is not an initial referral for evaluation, the notice must also include the means by which a copy of a description of the procedural safeguards can be obtained. A copy of the procedural safeguards must be given to parents upon initial referral for evaluation. 34 C.F.R. §300.504(a)

³⁹ The determination of what constitutes a reasonable amount of time is made on a case by case basis. The term "reasonable" generally means without undue delay and within a timeframe that does not interfere with a student's right to receive FAPE.

⁴⁰ 34 C.F.R. §300.503(a)

⁴¹ 34 C.F.R. §300.503(c)

⁴² 34 C.F.R. §300.324(a)(4)(ii)

⁴³ LEA Data Management Policy (December 9, 2010)



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throughout the school year; all new information shall be captured or uploaded in SEDS within 5 business days of receipt.⁴⁴ Upon the enrollment of a new student, an LEA shall verify that the student's entire record is complete in SEDS; if the student's record is incomplete, the LEA shall take all appropriate steps to obtain any missing documentation and upload the documentation to SEDS within 10 business days of the student's enrollment.

The IEP document is considered compliant once all the following requirements are met: all notice requirements are fulfilled; all mandatory and appropriate additional IEP members are properly included by the LEA to participate in the IEP Team meeting; the IEP Team has reviewed and completed all required sections of the IEP and uploaded all of the supporting eligibility and evaluation documentation to SEDS; all regulatory and policy timelines are met; and the LEA finalizes the IEP draft. The LEA may implement the IEP once the parent gives consent for initial provision of IDEA service. Parental consent for services continues to be in effect, year after year, unless the parent formally revokes consent and the LEA appropriately issues PWN before discontinuing services.

ADDITIONAL GUIDANCE

This memorandum supersedes all previous policy, memoranda, and/or guidance promulgated by the SEA. Please direct any questions regarding the content of this document to Grace Chien, LEA Policy and Charter Implementation Specialist, at (202) 741-5089 or by email at Grace.Chien@dc.gov.

⁴⁴ LEAs must regularly update documentation in SEDS to ensure timely transfer of student records. LEA Data Management Policy (December 9, 2010); see 34 C.F.R. §300.323(g) regarding transfer of student records.




January 27, 2014

(X) ACTION REQUIRED
() INFORMATIONAL

TO: Local Educational Agencies
Public Agencies (providing educational services to children with disabilities)

CC: Public Charter School Board
Deputy Mayor of Education

FROM: Jesús Aguirre, Acting State Superintendent of Education 

RE: Individualized Education Program (IEP) Amendment Policy

CONTACTS: Grace Chien, Director of Policy
Division of Specialized Education
Grace.Chien@dc.gov
(202) 741-5089

INTRODUCTION

The purpose of this Memorandum is to provide guidance and establish state-level parameters for utilizing the documented written agreement amendment modality to amend Individualized Education Programs (IEPs). It is the expectation of the Office of the State Superintendent of Education (OSSE) that all local educational agencies (LEAs) and public agencies serving students with disabilities adhere to this Policy when initiating, responding to, and documenting proposals for IEP amendments. This Policy is effective as of March 3, 2014.

MONITORING AND COMPLIANCE

The U.S. Department of Education's Office of Special Education Programs (OSEP) requires that every state education agency (SEA) monitor local educational agencies (LEAs) to ensure compliance with Part B of the Individuals with Disabilities Education Act (IDEA). A finding of LEA noncompliance by the Office of the State Superintendent of Education (OSSE) will result in corrective actions for each area of noncompliance and may result in the requirement to submit an improvement plan. OSSE may also recommend or require training and technical assistance for LEA staff when crafting corrective actions. All items of noncompliance shall, by federal law, be corrected within one year of the finding; sustained noncompliance by an LEA may result in sanctions that include potential withholding of Part B grant funding.¹ Consistent with the IDEA and its regulatory framework, all LEAs shall comply with monitoring requirements established annually by OSSE, which include the collection and submission of both quantitative and qualitative data that support monitoring for regulatory compliance and programmatic quality. Additionally, a subset of LEAs will be selected for OSSE's annual monitoring process. OSSE, in its role as SEA, ensures access to a free and appropriate public education (FAPE) by meeting with other public agencies providing education services to children with disabilities to review and discuss the delivery of special education services. If any noncompliance is identified during OSSE's review, the public agency will be asked to take corrective action, as appropriate.

¹ 34 C.F.R. §300.600(a)(3)



INDIVIDUALIZED EDUCATION PROGRAM (IEP) REVIEW AND REVISION

LEAs must ensure that the IEP Team reviews the student's IEP at least once annually,² to determine whether the annual goals for the student are being achieved. When appropriate, the IEP Team should review the IEP to address concerns related, but not limited to:

- Any lack of expected progress toward the annual goals,³ and in the general education curriculum, if appropriate;⁴
- The results of any reevaluation;⁵
- Information about the student provided to, or by, the parents;⁶ and
- The student's anticipated needs.⁷

IEP Teams must consider the following factors when developing, reviewing, and revising an IEP: the strengths of the student; the concerns of the parents related to enhancing the education of the student; the results of the initial or most recent evaluation of the student; and the academic, developmental, and functional needs of the student.⁸ When appropriate, the IEP Team must consider the following additional factors: the use of positive behavioral interventions, supports, and other strategies to address student behavior that impedes the student's learning or that of other students; the language needs of a student with limited English proficiency as those needs relate to the student's IEP; the appropriateness of instruction in Braille or the use of Braille for a student who is blind or visually impaired; the comprehensive language and communication needs of a student who is deaf or hard of hearing; and the use of assistive technology devices and services.⁹

IEP AMENDMENT PROCESS

A student's special education needs may change throughout the year. If it becomes necessary to make changes to a student's IEP after the annual IEP review occurs during the school year, changes to an IEP may be made by amending the relevant section of the IEP rather than by redrafting the entire IEP.¹⁰ Completion of an IEP amendment does not change, replace, or extend the current IEP annual review date. An IEP Team may amend an IEP by convening an IEP Team meeting to consider the proposed amendment. All IEP Team participation, documentation, and notice requirements apply when an LEA convenes an IEP Team meeting to consider a proposed amendment.¹¹ Alternatively, a parent of a child with a disability and the LEA may agree not to convene an IEP Team meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the student's current IEP.¹² When a parent and LEA agree to proceed with an amendment through documented written agreement rather than convening an IEP Team meeting to consider the proposed amendment, the parent and LEA, per this Policy, must provide signature on the appropriate form indicating consent to proceed using the documented written agreement amendment modality.

² For information regarding IEP documentation requirements for compliance, please refer to the "IEP DOCUMENTATION REQUIREMENTS" section on pages 7 and 8 of the Individualized Education Program (IEP) Process Policy (August 30, 2011).

³ 34 C.F.R. §300.320(a)(2)

⁴ 34 C.F.R. §300.324(b)(1)(ii)(A)

⁵ 34 C.F.R. §300.303

⁶ 34 C.F.R. §300.305(a)(2)

⁷ 34 C.F.R. §300.324(b)(1)(ii)(D)

⁸ 34 C.F.R. §300.324(a)(1)

⁹ 34 C.F.R. §300.324(a)(2)

¹⁰ 34 C.F.R. §300.324(a)(6)

¹¹ 34 C.F.R. §300.321; OSSE Individualized Education Program (IEP) Process Policy (August 30, 2011)

¹² 34 C.F.R. §300.324(a)(4)(i)



AMENDMENT THROUGH DOCUMENTED WRITTEN AGREEMENT

The following parameters apply when a parent and LEA agree to amend an IEP through the documented written agreement modality (rather than convening an IEP Team meeting to consider the proposed amendment):

- I. LEAs may not revise a student's special education eligibility status through the documented written agreement amendment modality.
- II. LEAs may not revise a student's disability category through the documented written agreement amendment modality.
- III. LEAs may not revise a student's placement between a public and nonpublic setting or change location assignment through the documented written agreement amendment modality.
- IV. When proposing to revise types or amounts of specialized instruction or related services using the documented written agreement amendment modality, LEAs must provide the parent with written input from the appropriate related service provider or specialized instructor, utilizing the appropriate state-level form, regardless of which party initiates the proposed amendment. A parent who refuses or is nonresponsive to a request for signature indicating consent to the documented written agreement amendment modality is constructively requesting that the LEA convene an IEP Team meeting for the purposes of considering the proposed amendment. In such circumstances, the LEA must follow the same IEP Team participation, documentation, and notice procedures required for an annual IEP Team meeting.
- V. Amendments made through the documented written agreement amendment modality must include signatures from both the LEA representative and parent in order to be considered valid.
- VI. Finalized documentation must be uploaded in the Special Education Data System (SEDS) within five (5) business days of the completed written agreement.

DOCUMENTATION OF A PROPOSAL TO AMEND AN IEP

Either an LEA or a parent can propose to amend a student's IEP through an IEP Team meeting or the documented written agreement amendment modality. Regardless of which party proposes the amendment or what modality the amendment takes, the LEA must proceed by completing the following information in SEDS:

- Identification of the party initiating the amendment;
- A detailed description of the proposed amendment;
- Justification of why the amendment is appropriate;
- Written input from the related service provider or specialized instructor (when proposing to revise types or amounts of specialized instruction or related services using the documented written agreement amendment modality);
- Proposed modality of the amendment; and
- The response to and outcome of the proposal.

PROCEDURAL REQUIREMENTS

Regardless of the proposed amendment outcome, the LEA must provide prior written notice (PWN) to the parent every time the IEP Team decides to initiate a change or decides against making a change to the student's IEP.¹³ The PWN must be finalized in SEDS within five (5) business days of the amendment outcome. The parent

¹³ 34 C.F.R. §300.503(a)



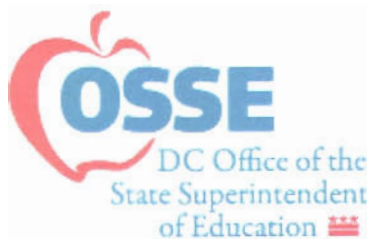
must be provided with the PWN,¹⁴ a copy of the signed agreement, and a copy of the amended IEP with the amendments incorporated within a reasonable time before the LEA implements the change.

ADDITIONAL GUIDANCE

This memorandum supersedes all previous policy, memoranda, and guidance issued by the state educational agency (SEA) regarding this topic. Please direct any questions regarding the content of this document to OSSE, Division of Specialized Education at OSSE.DSEPolicy@dc.gov.

¹⁴ 34 C.F.R. §300.503(a)






January 5, 2010

(X) ACTION REQUIRED
() INFORMATIONAL

TO: Chancellor, District of Columbia Public Schools (DCPS)
Principals, DCPS
Public Charter School Board
Public Charter School Directors

FROM: Kerri L. Briggs, PhD 
State Superintendent of Education

RE: Related Services

CONTACTS: Amy Maisterra, Chief of Staff
Department of Special Education
Email: amy.maisterra@dc.gov
(202) 481-3757
Or
Grace Chien, Charter LEA Policy and Implementation Specialist
Department of Special Education
Email: grace.chien@dc.gov
(202) 741-5089

This Memorandum serves to clarify the expectation of the Office of the State Superintendent of Education (OSSE) regarding related service provision requirements as outlined in the Individuals with Disabilities Education Act (IDEA) 2004 and Title 5, Chapter 30 of the District of Columbia Municipal Regulations (DCMR). Local Education Agencies (LEAs) must provide related services to all eligible students with disabilities when such services are required in order for a child with a disability to benefit from special education. This Memorandum supersedes all previous policy, memoranda and/or guidance promulgated by the State Education Agency (SEA).¹ This policy takes effect on January 2010.

¹ This Memorandum is not intended to be a restatement of the requirements of the IDEA and the District of Columbia Code of Municipal Regulations (DCMR) in regard to related services. LEAs are responsible for knowing and implementing the requirements of IDEA and the DCMR applicable to LEAs.

Background

It is the responsibility of the OSSE, as the SEA, to ensure that all children with disabilities within the District of Columbia receive a Free Appropriate Public Education (FAPE) in the Least Restrictive Environment (LRE). As defined in the IDEA, FAPE includes both special education and related services, and must be provided to each child with a disability in accordance with the child's Individualized Education Program (IEP) at no cost to the parent.²

In order to be eligible for related services under the IDEA, a child must be identified as a child with a disability and the IEP team must determine that the related service(s) are required to assist the child with a disability to benefit from special education.³ To be appropriate, related services must be designed to meet a child's individual needs. Each child's IEP must include a statement of the special education, related services, and supplementary aids and services to be provided to the child, or on behalf of the child. In order to address the educational needs of the child, the IEP must also contain a statement of the program modifications or supports for school personnel that will enable the child to advance toward attaining the annual goals, be involved in and make progress in the general education curriculum, participate in extracurricular and other nonacademic activities, and be educated and participate with non-disabled peers.⁴

The implementation of appropriate related services is one of many LEA responsibilities in providing FAPE. The IDEA specifies that LEAs are also accountable for other responsibilities such as conducting Child Find activities, evaluating students, developing IEPs, and providing the full continuum of service that ensures that the special education and related service needs of each child with a disability are provided in the LRE.⁵ The OSSE expects LEAs to comply fully with all local and federal law in designating and implementing related services.

Key Terms

The key terms outlined below have specific meanings assigned by IDEA (34 C.F.R. §300.34), and/or DCMR 5-3001. This is not an exhaustive list of the developmental, corrective and supportive services that a child with disabilities may require. However, to provide clarity on typical types of related services, definitions are provided below.

² 34 C.F.R. §300.17

³ 34 C.F.R. §300.34

⁴ 34 C.F.R. §300.320(a)(4)

⁵ 34 C.F.R. Part 300

- *Audiology*. Audiology services include: (a) the identification of children with hearing loss; (b) determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing; (c) provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation; (d) creation and administration of programs for prevention of hearing loss; (e) counseling and guidance of children, parents, and teachers regarding hearing loss; and (f) determination of children's needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.
- *Counseling/behavioral support services*. Counseling/behavioral support services include supportive therapeutic services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel to improve a child's social-emotional, interpersonal, and academic functioning.
- *Early identification and assessment of disabilities in children*. Early identification and assessment refers to the implementation of a formal plan for identifying a disability as early as possible in a child's life.
- *Interpreting services*. Interpreting services include: (a) the following, when used with respect to children who are deaf or hard of hearing: oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, and transcription services, such as communication access real-time translation (CART), C-Print, and TypeWell; and (b) special interpreting services for children who are deaf-blind.
- *Medical services*. Medical services are services provided by a licensed physician to determine a child's medically related disability that results in the child's need for special education and related services.
- *Occupational therapy*. Occupational therapy services are services provided by a qualified occupational therapist that include: (a) improving, developing, or restoring functions impaired or lost through illness, injury, or deprivation; (b) improving ability to perform tasks for independent functioning if functions are impaired or lost; and (c) preventing, through early intervention, initial or further

impairment or loss of function.

- Orientation and mobility. Orientation and mobility services are services provided to blind or visually impaired children by qualified personnel to enable those students to attain systematic orientation to and safe movement within their environments in school, home, and community; and which include teaching children in the following, as appropriate: (a) spatial and environmental concepts and use of information received by the senses (such as sound, temperature and vibrations) to establish, maintain, or regain orientation and line of travel (e.g. using sound at a traffic light to cross the street); (b) to use a long cane or a service animal to supplement visual travel skills or as a tool for safely negotiating the environment for children with no available travel vision; (c) to understand and use remaining vision and distance low vision aids; and (d) other concepts, techniques, and tools.
- Parent counseling and training. Parent counseling and training includes: (a) assisting parents in understanding the special needs of their child, (b) providing parents with information about child development, and (c) helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP or IFSP.
- Physical therapy. Physical therapy is a service provided by a qualified physical therapist to increase mobility, dexterity, and overall range of physical movement/functioning.
- Psychological/behavioral support services. Psychological/behavioral support services are services that may include: (a) administering psychological and educational tests and other assessment procedures; (b) interpreting assessment results; (c) obtaining, integrating, and interpreting information about child behavior and conditions relating to learning; (d) consulting with other staff members in planning school programs to meet the special educational needs of children as indicated by psychological tests, interviews, direct observation, and behavioral evaluations; (e) planning and managing a program of psychological services, including psychological counseling for children and parents; and (f) assisting in developing positive behavioral intervention strategies.

- Recreation. Recreation services are services that may include: (a) assessment of leisure function; (b) therapeutic recreation services; (c) recreation programs in schools and community agencies; and (d) leisure education.
- Rehabilitation counseling. Rehabilitation counseling services are services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, independence, and integration in the workplace and community for a child with a disability.⁶
- School health and school nurse services. School health and school nurse services are services designed to enable a child with a disability to receive FAPE as described in the child's IEP. School nurse services are services provided by a qualified school nurse. School health services are services that may be provided by either a qualified school nurse or other qualified person. These services may include the administration of medication required during the school day if needed to assist the child to benefit from special education. Specific instructions regarding the administration of medication must be documented in the child's IEP.⁷
- Social work/behavioral support services. Social work/behavioral support services in schools include: (a) preparing a social or developmental history on a child with a disability; (b) group and individual counseling with the child and family; (c) working in partnership with parents and others on those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school; (d) mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program; and (e) assisting in developing positive behavioral intervention strategies.
- Speech-language pathology services. Speech-language services include: (a) identification of children with speech or language impairments; (b) diagnosis and appraisal of specific speech or language impairments; (c) referral for medical or other professional attention necessary for the habilitation of speech or language

⁶ 34 C.F.R. §300.34(c)(12); the term also includes vocational rehabilitation services provided to a student with a disability by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended, 29 U.S.C. 701 et seq.

⁷ See Guidance document from OSEP: Letter to Anonymous, November 13, 1996 (25 IDELR 531)

impairments; (d) provision of speech and language services for the habilitation or prevention of communicative impairments; and (e) counseling and guidance of parents, children, and teachers regarding speech and language impairments. A child with a disability does not need to be identified or diagnosed as having speech and/or language disorders in order to receive speech-language pathology as a related service. Any child eligible for special education may receive speech-language therapy if the IEP team formally determines that the child requires the related service of speech-language services in order to benefit from special education.⁸

- Transportation. Transportation includes: (a) travel to and from school and between schools; (b) travel in and around school buildings; and (c) specialized equipment (such as special or adapted buses, lifts, and ramps), as required for a child with a disability.

Transportation

Not all children with disabilities are eligible to receive transportation as a related service. Transportation is an appropriately designated related service only when it is needed in order for the child to benefit from special education. If transportation to and from school for the general student population is provided, then transportation must be provided for a child with a disability in order to not discriminate against the child with a disability. If transportation is not provided for the general student population, then the issue of transportation for children with disabilities must be decided on a case-by-case basis by the IEP team. If the IEP team determines that transportation services are necessary, a statement to that effect must be included in the IEP, along with relevant details and arrangements.⁸ Additionally, if the team determines that the parent will provide transportation, that determination, as well as the specific arrangements, should also be indicated on the IEP to ensure that it is provided at no cost to the parent if it is a related service.

Speech-Language Pathology Services as Special Education

The term specially designed instruction refers to the adaptation of content, methodology, or delivery of instruction, as appropriate to meet the unique needs of a child with a disability in order to ensure access to the general curriculum, so that the child can meet the educational standards that apply to each child within the District of Columbia.⁹ Speech-language pathology

⁸ 34 C.F.R. §300.320(a)(4)

⁹ 34 C.F.R. §300.39(b)(3)

services that fall under specially designed instruction may be provided to a child as the only service on the IEP if it is determined that the child requires no other special education services due to a lack of deficit in the academic performance.¹⁰

Exception to Related Services

Related services do not include a medical device that is surgically implanted, the optimization of that device's functioning (e.g. mapping), maintenance of that device, or the replacement of that device. However, nothing in this exception limits the right of a child with a surgically implanted device to receive related services that are determined by the IEP team to be necessary for the child to receive FAPE; limits the responsibility of LEAs to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is transported to and from school or is at school; or prevents the routine checking of an external component of a surgically-implanted device to make sure it is functioning properly.¹¹

Eligibility for Related Services

To be eligible for related services, a child must be a child with a disability. To be considered a child with a disability, a child must: (1) have one of the specified disabilities and (2) because of the disability, need special education and related services.¹² The related service must also be required in order to assist a child with a disability to benefit from special education.¹³ Additionally, a child can be found eligible for special education and related services if he or she is evaluated and determined to have a developmental delay.

The District of Columbia has adopted the term developmental delay to apply to a child aged 3 through 7 who (a) experiences severe developmental delays of at least two years below his or her chronological age and/or at least two standard deviations below the mean, as measured by appropriate standardized diagnostic instruments and procedures, in one or more of the following areas: 1) physical development, 2) language and communication development, 3) social or emotional development, 4) cognitive development, or 5) adaptive development; and (b) due to the delay(s) described above, requires special education and related services.¹⁴ Note

¹⁰ In such cases, the speech-language pathology services must be documented formally as specially designed instruction under special education services.

¹¹ 34 C.F.R. §300.8(a), 34 C.F.R. §300.113(b)

¹² 34 C.F.R. §300.34

¹³ 34 C.F.R. §300.34(a)

¹⁴ DCMR: Title 5, Chapter 30, Section 3001.1. No child shall be classified as having "Developmental Delay" based solely on deficits in the area of social and/or emotional development. "Developmental Delay" does not apply to

that an LEA is not required to adopt and use the term developmental delay, but if an LEA uses the term, the LEA must conform to the District of Columbia's definition.¹⁵

Parental Consent

Initial Consent for Services. An LEA that is responsible for making FAPE available to a child with a disability must obtain informed consent from the parent of the child before the initial provisions of special education and related services. If a parent(s) refuses to provide consent or fails to respond after an LEA's reasonable attempts to obtain informed written consent, the LEA may not use the due process procedures or mediation to obtain consent for the initial provision of special education and related services.¹⁶ Furthermore, the LEA is not required to hold an IEP meeting or create an IEP¹⁷ and is not in violation of providing FAPE to the child.¹⁸

Parent's Right to Revoke Consent. The December 2008 IDEA regulations strengthen parental rights to unilaterally revoke consent to special education and related services.¹⁹ Specifically, it was revised to require that parental revocation of consent for the continued provision of special education and related services must be in writing and that upon revocation of consent, a LEA must provide the parent(s) with prior written notice in accordance with 34 CFR Section 300.503. Additionally, if at any time subsequent to the initial provision of special education and related services, the parent(s) of a child revokes consent in writing for the continued provision of special education and related services, the LEA:

1. May not continue to provide special education and related services to the child, but must provide prior written notice in accordance with 34 CFR Section 300.503 before ceasing the provision of special education and related services.
2. May not use the procedures in subpart E of the regulations (including the mediation procedures under 34 CFR Section 300.506 or the due process

children with the following disabilities: (a) autism; (b) traumatic brain injury; (c) mental retardation; (d) emotional disturbance; (e) other health impairment; (f) orthopedic impairment; (g) visual impairment, including blindness; (h) hearing impairment, including deafness; or (i) speech/language impairment.

¹⁵ 34 C.F.R. §300.111(b)(2)

¹⁶ 34 C.F.R. §300.300(b)(3)

¹⁷ 34 C.F.R. §300.300(b)(4)(ii)

¹⁸ 34 C.F.R. §300.300(b)(4)(i)

¹⁹ 34 C.F.R. §300.300(b)(4)

procedures under 34 CFR sections 300.507 through 300.516) in order to obtain agreement or a ruling that the services may be provided to the child.

3. Will not be considered to be in violation of the requirement to make a free appropriate public education (FAPE) available to the child because of the failure to provide the child with further special education and related services.
4. Is not required to convene an individualized education program (IEP) team meeting or develop an IEP under 34 CFR sections 300.320 and 300.324 for the child for further provision of special education and related services.
5. In accordance with 34 CFR Section 300.9 (c)(3), if the parent(s) revoke consent in writing for their child's receipt of special education services after the child is initially provided special education and related services, the public agency is not required to amend the child's education records to remove any references to the child's receipt of special education and related services because of the revocation of consent.

Designation of Related Services

The designation of related services must be based on relevant, current data which indicate that the services are required to ensure that the child with a disability will benefit from special education. Relevant, current data may include a full spectrum of evaluation tools ranging from formal and informal assessments, progress reports provided by related service providers, teacher and parent observations, and all other relevant sources of information. The related service must relate to the child's educational needs and annual goals.

When determining appropriate related service(s), the IEP team members must consider the educational impact related services may have on both the child's academic achievement, but also on the child's functional performance such as social interactions, emotional development, communication, and behavior. To assist IEP teams in such tasks, LEAs are responsible for inviting and including related service providers on the IEP team. Related service providers play a critical role in designating services in addition to interpreting the child's evaluation results. Additionally, all IEPs must specify the following:

- The projected date that the related service(s) will begin;
- The anticipated frequency and duration of the related service(s); and

- Where the related service(s) will be provided.²⁰

Procedures Regarding Missed Related Services

LEAs are required to provide related services in a manner consistent with the frequency, location, and duration of related services as specified in a child's IEP. LEAs are responsible for ensuring that service providers implement and document all instances of actual and attempted service delivery.²¹ The occasional missed related service session may be unavoidable; however, the LEA must always consider the impact of the missed session on the child's progress and performance and ensure the continued provision of FAPE. Every LEA should develop its own related service policy that explains the procedure for missed services. This policy must be accessible to parents at all times and should detail the steps taken by the LEA to ensure that missed sessions are rescheduled in a timely manner.

Missed service due to provider absence. When related services are missed due to a provider's absence, the LEA must ensure that a substitute provider is available and a make-up session is scheduled. All make-up sessions must be delivered in accordance with the provisions in the child's IEP. Extended absence on the part of a related service provider is unacceptable and may lead to a denial of FAPE.

Missed service due to child's absence. Whether an interruption in service could be deemed a denial of FAPE is an individual determination that must be evaluated on a case-by-case basis by the IEP team. The IEP team must consider the impact of a provider's absence or a child's absence on the child's progress and performance, and determine appropriate next steps to ensure the provision of FAPE and that the child continues to progress towards meeting the annual goals in his or her IEP.²² If the IEP team believes that the missed session(s) may be deemed a denial of FAPE, the LEA must ensure that missed session(s) are available to the child and the make-up session are conducted in the timeliest manner possible.

Interruption in service. Under no circumstances should a LEA cease service provision. Related services must remain available and accessible as specified by

²⁰ 34 C.F.R. §300.320(a)(7)

²¹ 34 C.F.R. §300.154(b)(2) ("if a public agency other than an educational agency fails to provide or pay for the special education and related services... the LEA... shall provide or pay for these services to the child in a timely manner.")

²² Guidance document from OSEP: Letter to Clarke, March 8, 2007 (48 IDELR 77)

the IEP regardless of the frequency or cause of missed sessions; even when student absence occurs more than occasionally or is predictable. In addition, the provision of a related service to a child with disabilities who is subject to discipline must be in accordance with the IDEA.²³ LEAs should consult with the parent(s) when a child repeatedly misses related service provision due to frequent/chronic absences or student/parent refusal of services. Any change in the provision of a related service to a child with disabilities is a change in the IEP and may only be made in accordance with the revision/amendment provisions in the IDEA.

Due Diligence and IEP Amendment

A LEA must demonstrate its due diligence in providing related services to each child according to his or her IEP. To demonstrate due diligence, LEAs must maintain and provide accurate and clear documentation of all instances of attempted service provision, this includes the date, time, and explanation behind each missed session.

If a child's interests are potentially best served through revising the existing IEP, then team members can convene an IEP team meeting in a timely manner or when appropriate, utilize the IEP amendment process to consider and/or make changes to existing services, the frequency of those services, or the location or provider of those services. Prior to meeting, the LEA must follow the parent participation requirements in the IDEA for IEP meetings, including issuing the meeting notice or, if applicable, obtaining the agreement of the parent(s) not to convene the IEP team meeting for the purposes of amending the IEP.²⁴

Additional Guidance

Please direct any questions regarding the content of this Guidance to **Grace Chien, Charter LEA Policy and Implementation Specialist**, at (202) 741-5098 or by email at Grace.Chien@dc.gov. The OSSE has the authority as the State Education Agency (SEA) to issue additional guidance regarding policy and related practice implementation to ensure that all LEAs are complying with the law in providing related services to students with disabilities in the District of Columbia.

²³ 34 C.F.R. §300.530(d)

²⁴ 34 C.F.R. §§300.322 and 300.324(a)(4)



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State Superintendent of Education

MARCH 10, 2011

(X) ACTION REQUIRED

() INFORMATIONAL

TO: Chancellor, District of Columbia Public Schools (DCPS)
Public Charter School Board
Public Charter School Directors
Principals, DCPS

FROM: Hosanna Mahaley 
Acting State Superintendent of Education

RE: Extended School Year (ESY) Services Policy

CONTACTS: Amy Maisterra, Chief of Staff
Division of Special Education
Email: Amy.Maisterra@dc.gov
(202) 481-3757
OR
Grace Chien, LEA Policy and Charter Implementation Specialist
Division of Special Education
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INTRODUCTION

The purpose of this Memorandum is to establish state-level standards and criteria for extended school year (ESY) services that are consistent with the Individuals with Disabilities Education Act (IDEA) requirement to provide a free appropriate public education (FAPE) to all students with disabilities. It is the expectation of the Office of the State Superintendent of Education (OSSE) that all local educational agencies (LEAs) implement this policy to support Individualized Education Program (IEP) Teams in making appropriate ESY eligibility determinations and service designations.¹ In order to facilitate implementation of this policy in a manner that accelerates reform without placing an undue burden on LEAs, for the 2010-2011 school year, LEAs need only comply with the certification requirements in this policy. See LEA Responsibility to Participate in and Certify ESY Decisions Section. Beginning in the 2011-2012 school year, and each year thereafter, LEAs are required to comply with all requirements set forth in this policy.

DEFINITION OF EXTENDED SCHOOL YEAR (ESY) SERVICES

Extended school year (ESY) services are IDEA Part B special education and related services that are provided to a student with a disability beyond an LEA's regularly scheduled school year. Similar to other Part B services, ESY services must be provided in accordance with the student's IEP and at no cost to the

¹ 34 C.F.R. §300.106(b)(2)



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parents of the student.¹ The designation of ESY services must be individualized to the unique needs of each student. LEAs may not limit ESY services to particular categories of disability or unilaterally limit the type, amount, or duration of these services.² Furthermore, LEAs must consider and provide programs and services not currently available at the LEA, if such programs and services are necessary to address the individualized needs of a student.

DIFFERENCE BETWEEN ESY SERVICES AND SUMMER SCHOOL

By definition, ESY services are distinct from summer school and summer enrichment programs, which typically offer generalized content on a predetermined schedule. A student's need for ESY services cannot be fulfilled by summer programming that is not implemented according to the student's IEP. While ESY services are often implemented during the summer break, ESY services may be provided during other times outside of the normal school year, such as before and after regular school hours or during winter or spring break, if the IEP Team determines that a student requires ESY services during those time periods in order to receive FAPE.

ELIGIBILITY FRAMEWORK FOR EXTENDED SCHOOL YEAR (ESY) SERVICES

At minimum, eligibility for ESY services must be considered on an annual basis as part of the IEP process for every student with a disability.³ The intent of ESY services is to provide FAPE, not to provide additional resources or maximize programming beyond FAPE. When an IEP Team makes a decision regarding ESY eligibility, it is determining whether the benefits gained during the regular school year would be significantly jeopardized if the student does not receive ESY services. OSSE has established the following criteria for IEP Teams to apply in determining ESY eligibility:⁴

Criterion 1: Impact of Break in Service on Critical Skills

The IEP Team begins the ESY determination process by considering whether the break in service will jeopardize one or more critical skills. In the context of ESY services, the phrase *critical skill* refers to a skill that is essential to a student's overall educational progress. A critical skill may be an academic skill, such as reading, or a non-academic skill that has a direct educational impact, such as a fine motor skill.⁵ The IEP Team is required to describe the educational impact of the break in service on any identified critical skill and to support any identified concerns with student data. See Analysis of Student Data Section. ESY services are not necessary for FAPE if the

¹ 34 C.F.R. §300.106(b)(1)

² 34 C.F.R. §300.106(a)(3)

³ 34 C.F.R. §300.106(a)(2); 34 C.F.R. §300.324(b)(1)(i)

⁴ "States may use recoupment and retention as their sole criteria but they are not limited to these standards and have considerable flexibility in determining eligibility for ESY services and establishing State standards for making ESY determinations. However, whatever standard a state uses must be consistent with the individually-oriented requirements of [IDEA 2004] and may not limit eligibility for ESY services to students with a particular disability category or be applied in a manner that denies students with disabilities who require ESY services in order to receive FAPE access to necessary services." 71 Fed. Reg. 46582 – 46583 (August 14, 2006)

⁵ Non-academic skills also include social, functional, and behavioral skills that have a direct educational impact. ESY eligibility decisions based on the identification of a critical skill that is related to behavior must reference and build upon the student's behavioral intervention plan (BIP) and functional behavior assessment (FBA).



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IEP Team does not have concerns about the impact of the break in service on any of the student's critical skills.

Criterion 2: Degree of Regression of Critical Skill

The IEP Team must consider the degree of regression that the student will experience in any critical skill identified as potentially jeopardized by the break in service. In the context of ESY services, the term *regression* refers to a decrease in performance level or ability related to a previously attained or partially attained (emerging) critical skill. Since most students experience some natural regression during breaks in service, the IEP Team should use student data to determine if there is a likelihood of significant regression (*i.e.* the student would need to relearn the critical skill or skill set in its entirety, to the detriment of his/her overall educational progress). See Analysis of Student Data Section. ESY services are not necessary for FAPE if there is little or no risk of significant critical skill regression.

Criterion 3: Time Required for Recoupment of Critical Skill

The IEP Team must consider the time the student would require for recoupment of any critical skill identified as potentially being jeopardized by the break in service. In the context of ESY services, the term *recoupment* refers to a student's capacity to recover a regressed critical skill to a degree demonstrated prior to the break in service. Due to natural regression, most students will require a reasonable amount of time for recoupment once school reconvenes. The IEP Team must use student data to assess whether the time the student requires for critical skill recoupment is extraordinary. See Analysis of Student Data Section. ESY services are not appropriate for students with disabilities who can recoup critical skills with re-teaching in a reasonable amount of time.

ANALYSIS OF STUDENT DATA

IEP Teams must use student data to quantify, to the extent possible, the likely impact of a break in service on educational benefit, through a rigorous discussion of critical skill regression and recoupment. In order to make well-informed ESY eligibility and service decisions, IEP Teams must utilize at least three months of progress monitoring data from the current school year.⁶ The term *progress monitoring data* refers to student information that, collected and measured over time, demonstrates a performance trend toward or away from the achievement of a specified goal in the student's IEP. Examples of progress monitoring data include assessment data, progress or service notes, classroom observations, and student work samples. Other sources of data that IEP Teams must use, if available, to inform and support their decisions include:

- Historical data from the previous school year that documents the student's rate of progress toward critical skill attainment, and rate of regression of an identified critical skill and time needed for the recoupment of the critical skill following previous breaks from service;

⁶ LEAs should utilize any relevant current data for students for whom the LEAs cannot obtain three months of progress monitoring data from the current school year (*e.g.* students transitioning from Part C, students recently determined eligible for special education services under IDEA Part B, or students recently transferred from a different LEA).



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- Medical records or evaluations that speak to the nature and/or severity of the student's identified disability(ies) as it relates to the student's need for consistent, continued access to highly-structured programming; and/or
- Current developmental data that indicate that the student is at a critical stage of breakthrough or on the verge of acquiring an emerging skill within a skill set.

For an IEP Team's ESY decisions to be considered complete, the IEP Team must identify the source of student data utilized and describe the analysis of such student data for each eligibility criteria in the student's IEP. All supporting documentation must be uploaded to the Special Education Data System (SEDS) no later than five (5) business days after the ESY eligibility determination.

APPROPRIATE DESIGNATION OF ESY SERVICES

Once an IEP Team has completed its analysis of student data and has determined whether the student is eligible for ESY services, the IEP Team must designate special education and, as appropriate, related services that are directly relevant to preventing the anticipated significant regression of the identified critical skill. Designated ESY services may include all, some, or at minimum one, of the special education and/or related services that the student receives during the school year. It is inappropriate for an IEP Team to designate an entirely new service that is not substantively linked to the student's existing services.

The IEP Team must specify frequency, duration, and setting of ESY service delivery in the IEP in a manner consistent with OSSE's Related Services Policy. The term *frequency* refers to how often a special education or related service will be provided (*i.e.* the number of sessions per week and the length of each session). The term *duration* refers to how long the LEA will continue to provide the special education or related service (*i.e.* how many weeks or months of service as indicated by start and end date). The term *setting* refers to the decision regarding whether the designated services will be delivered in a general education or a non-general education learning environment.

Similar to special education and related services provided during the year, ESY services must be provided in the student's least restrictive environment (LRE). However, LEAs are not expected to create entire programs to accommodate individual students in a general education setting.⁷ The IEP Team may make alternative arrangements (*e.g.* services within the student's home) if such a location does not interfere with service delivery or conflict with ESY goals (*e.g.* those goals specific to socialization).

Eligibility for ESY-Related Special Education Transportation Services

Students eligible for transportation as a related service during the school year are eligible for transportation as a related service for the duration of ESY services. Students who were not determined eligible for transportation as a related service during the school year may be eligible for transportation as a related service for the duration of ESY services, if the IEP Team, applying new student data such as

⁷ ESY services must be provided in the LRE. However, LEAs are not required to create new programs as a means of providing ESY to students with disabilities in integrated settings if the LEA does not provide such programs at that time for its general education students. 64 Fed. Reg. 12406, 12577 (March 12, 1999)



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location of ESY services, determines that the student is eligible using the established state-level criteria. All ESY-related transportation eligibility decisions must be recorded in the student's IEP. LEAs must submit a completed administrative transportation request form to OSSE-DOT no later than five (5) business days after the ESY-related transportation eligibility determination.

DEVELOPMENT OF ESY GOALS

An IEP Team that determines that a student is eligible for ESY services must develop and document at least one ESY goal per identified critical skill. The goal should be designed to ensure that the student will retain the identified critical skill rather than acquire new skills. However, LEAs are not prohibited from teaching a new skill in addition to the identified critical skill, if the skill is required to assist the student with making meaningful educational progress toward IEP goals. The goal(s) must link service delivery to critical skill performance in a way that is specific, measurable, attainable, relevant, and time-limited. Each goal should have a clear description of the content taught, the way in which the student's progress will be measured, and the frequency with which the student's cumulative data will be assessed for necessary adjustments. All service decisions, terms, and goals must be documented in SEDS.

LEA RESPONSIBILITY TO PARTICIPATE IN & CERTIFY ESY DECISIONS

For ESY services that are designated for the summer months, LEAs must ensure that all ESY eligibility determinations, service designations, and location site decisions are made in a timely manner. An LEA's responsibility to ensure timely ESY decisions includes certification⁸ of affirmative ESY eligibility and service decisions, as detailed below. To comply with the requirement that IEP Teams must utilize at least three months of progress monitoring data from the current school year to make informed ESY decisions, and additionally must certify ESY decisions regarding nonpublic schools and ESY decisions that require transportation, LEAs shall ensure that all ESY-related decisions are made between the months of December and April.⁹

LEA Certification of ESY Decisions for Students Served by Nonpublic Schools

LEAs must certify all affirmative ESY eligibility and service decisions for all students served by nonpublic schools to OSSE¹⁰ no later than the first Monday of May every school year. To meet this certification requirement, LEAs must submit the LEA Certification Form listing all students eligible for ESY services to be provided by nonpublic schools. ESY service decisions that are not properly and timely certified by an LEA will be monitored by OSSE, for compliance with IDEA, to

⁸ The term "certification" refers to the requirement that LEAs provide adequate and timely notice to OSSE of ESY eligibility and ESY-related transportation services that result in state-level expenditures. ESY decisions for students served by nonpublic schools and ESY-related transportation service decisions made by "District Charters" must be submitted to, and certified by, the District of Columbia Public Schools (DCPS), which in turn must submit this information to OSSE. District Charters are public charter schools that have elected DCPS to serve as the LEA for purposes of special education.

⁹ LEAs will not be found noncompliant for ESY-related decisions or certifications that are untimely due to student enrollment or initial eligibility determinations for special education services under IDEA Part B that occur later than three months before the end of the school year.

¹⁰ The LEA at which the student is enrolled is responsible for being involved in all ESY decisions, including ESY decisions made in IEP Team meetings convened at nonpublic schools. LEAs may participate in IEP Team meetings in-person or through designation of nonpublic personnel. Regardless of the mode of participation, the LEA remains responsible for being actively involved in all IEP decisions. 34 C.F.R. §300.325(b)(2)



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ensure that LEAs have participated adequately in IEP Team decision-making.¹¹ OSSE will not pay invoices for ESY services where there is no documentation of the LEA's knowledge of, or involvement or participation in, the IEP Team decision regarding eligibility and service designation for ESY. Failure of an LEA to certify does not eliminate the ongoing obligation of the LEA to comply with the requirements set forth in IDEA. LEAs are responsible for any delays and expenses that result from failure to submit the necessary documentation in a complete and timely manner.

LEA Certification of ESY-Related Transportation Service Decisions

LEAs must certify all affirmative ESY-related transportation eligibility decisions, including all ESY service site location assignments, to the Department of Transportation at OSSE (OSSE-DOT) no later than the first Monday of May every school year. To meet this certification requirement, LEAs must submit the LEA Certification Form listing all students eligible for ESY-related transportation services. OSSE-DOT will not process requests for ESY-related transportation services resulting from IEP Team decisions made without appropriate knowledge or involvement of the LEA at which the student is enrolled, and will not process requests for students who did not receive transportation during the school year without proper documentation in SEDS as required.

DOCUMENTATION OF ESY SERVICE IMPLEMENTATION & CLOSEOUT SUMMARY REQUIREMENT

After all ESY decisions have been certified, LEAs must continue to fulfill their obligation to provide FAPE by ensuring that ESY services are provided by qualified service providers, implemented according to the terms specified in the student's IEP, and documented in service logs in SEDS.¹² Once ESY services have been rendered to the student for the duration specified in the student's IEP, the LEA must examine the service log record to ensure completeness, and must complete a final closeout summary in SEDS that summarizes 1) the progress made on the student's ESY goal(s) and 2) the status of the identified critical skill(s) in terms of the resulting level of regression and the anticipated time required for recoupment. All summer closeout summaries must be completed prior to the beginning of the next school year.

COMPLIANCE AND MONITORING

The U.S. Department of Education's Office of Special Education Programs (OSEP) requires that every state education agency (SEA) monitor LEAs to ensure compliance with Part B of the IDEA. A finding of LEA noncompliance by OSSE will result in the requirement to submit an improvement plan containing corrective actions for each area of noncompliance. OSSE may also recommend or require training and technical assistance to LEA staff when crafting corrective actions. All items of noncompliance must, by federal law, be corrected within one year of the finding; sustained noncompliance by an LEA may result in sanctions that include potential withholding of Part B grant funding.¹³

¹¹ 34 C.F.R. §300.325(b)

¹² Responsibility for service implementation remains with the LEA, even if a nonpublic school implements a student's IEP. 34 C.F.R. §300.325(c)

¹³ 34 C.F.R. §300.604(a)



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State Superintendent of Education

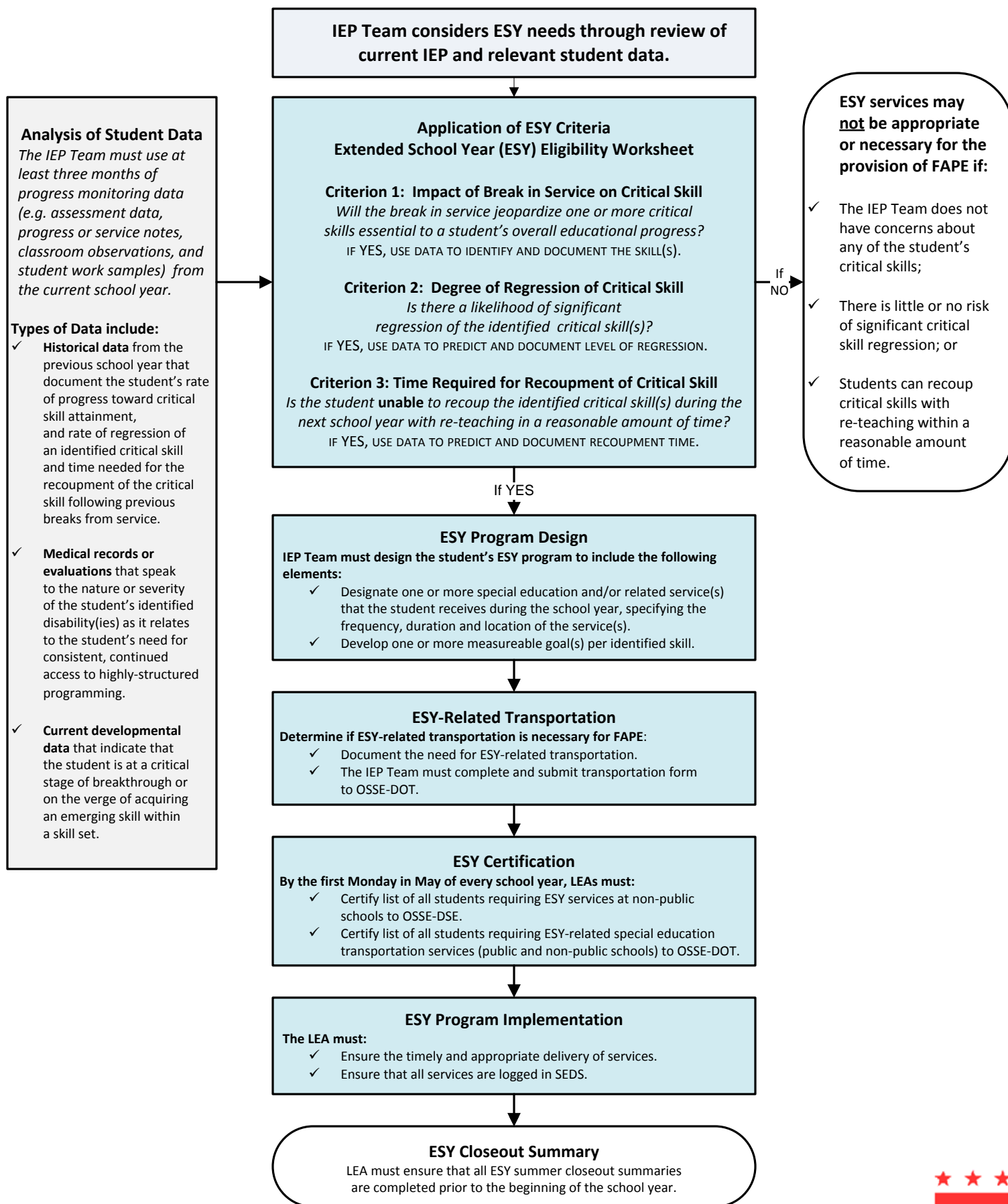
All LEAs must comply with monitoring requirements established annually by OSSE, which include the collection and submission of both quantitative and qualitative data that support monitoring for regulatory compliance and programmatic quality. Additionally, a subset of LEAs will be selected for OSSE's annual focused monitoring process.

ADDITIONAL GUIDANCE

This memorandum supersedes all previous policy, memorandum, and/or guidance promulgated by the SEA. Please direct any questions regarding the content of this document to Grace Chien, LEA Policy and Charter Implementation Specialist, at (202) 741-5089 or by email at Grace.Chien@dc.gov.

Extended School Year (ESY) Framework

From Eligibility to Service Documentation





NONREGULATORY GUIDANCE: EXTENDED SCHOOL YEAR SERVICES

The Office of the State Superintendent of Education (OSSE), Division of Special Education (DSE), issued the “Extended School Year (ESY) Services Policy” on March 10, 2011. Every local education agency (LEA) is responsible for making appropriate ESY eligibility determination and service designations for all students with Individualized Education Programs (IEPs). The purpose of this guidance document is to provide additional clarification to assist LEAs in implementing the policy in a manner consistent with the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§1400 *et seq.*

FREQUENTLY ASKED QUESTIONS (FAQ)

I. Definition of Extended School Year (ESY) Services

1. What are Extended School Year (ESY) services?

Extended School Year (ESY) services are special education and related services that are provided to a student with an IEP, when determined appropriate by an Individualized Education Program (IEP) Team, beyond an LEA’s regularly scheduled school year.

2. Is the “regularly scheduled school year” the same for all LEAs in the District of Columbia?

No. Every LEA, including independent charter schools and District charter schools, sets its own school calendar. When making ESY decisions, an IEP Team should refer to the school calendar of the LEA that provides instruction and direct services to the student during the school year.

3. When are ESY services typically provided?

ESY services are often provided during the summer break, but may be provided during other times outside of the regularly scheduled school year, such as before and after regular school hours, weekends, or during winter or spring break, if the IEP Team determines that the student requires ESY services during those time periods in order to receive a free appropriate public education (FAPE).

4. Do special education and related services provided during the summer months by LEAs with all-year (year-round) or 11-month programs fall within the definition of ESY services?

Generally, no. Special education and related services provided on instructional days that fall within an all year or 11-month program’s regular school calendar are not considered ESY services, and should not be documented as ESY services on the student’s IEP, unless the services are provided before or after regular school hours or on weekends.

5. What is the difference between summer school and ESY services provided during the summer months?

Summer school programming is not individualized to meet the specific needs of any one student. Generally, summer school programs offer general education content and extracurricular activities for a set period of time on a pre-determined schedule. Programming that is not developed on an individualized basis and implemented according to a student’s IEP cannot fulfill the student’s need for ESY services. NOTE: OSSE does not provide transportation services for students attending summer school unless the students also have ESY and qualify for transportation to receive those ESY services.

6. If an LEA charges parents for optional summer school programming, can it also charge parents for ESY services?

No. Under IDEA, ESY services must be provided at no cost to the parents of the student. LEAs may charge students with IEPs for optional summer school programming at the same rate as general education students attending public school, but LEAs may not add any additional fees associated with the administration or provision of ESY services prescribed on a student’s IEP.



NONREGULATORY GUIDANCE: EXTENDED SCHOOL YEAR SERVICES

II. ESY Eligibility Determinations and Service Designations

1. How often does an IEP Team need to make a determination regarding ESY eligibility?

Eligibility for ESY services must be considered at least once a year as part of the IEP process for every student with an IEP. An IEP Team may need to reconvene to consider a student's ESY eligibility if there is not enough data to make a determination at the time of the annual IEP review.

2. At what point during the school year should IEP Teams make ESY determinations?

ESY-related decisions for the summer months should be made between the preceding months of December and April. This timeline allows for IEP Teams to collect and consider at least three months of progress monitoring data from the current school year to make informed ESY decisions. Decisions for ESY services taking place after school, on weekends, and/or during shorter breaks throughout the year should be made in a timely manner following any relevant needs identified by the LEA or members of the student's IEP Team. As with ESY for summer months, ESY decisions for after school, weekends, and breaks should consider at least three months of progress monitoring data.

3. Can an IEP Team designate any Part B special education service and related service as an ESY service?

Yes. The IEP Team may designate any Part B special education service and related service as an ESY service. However, in most cases, an IEP Team will designate services within the scope of what the student receives during the school year, as it is inappropriate for an IEP Team to designate an entirely new service that is not substantively linked to the student's existing needs.

4. How does an IEP Team determine whether a student is eligible for ESY-related transportation?

Generally, students eligible for transportation as a related service during the school year are eligible for transportation as a related service for the duration of ESY services.¹ Students who were not determined eligible for transportation as a related service during the school year may be eligible for transportation as a related service for the duration of ESY services, if the IEP Team determines that: 1) the student is eligible using the established state-level criteria and 2) establishes a location for ESY services that is different from the school location attended during the school year.

III. Provision of ESY Services

1. Are ESY services meant to maximize student performance?

No. The intent of ESY services is to provide FAPE, not to provide additional resources or maximize programming beyond FAPE. When an IEP Team makes a decision regarding ESY eligibility, it is determining whether the benefits gained during the regular school year would be significantly jeopardized if the student does not receive ESY services.

2. Do ESY services need to be provided in the exact manner as the services are provided during the school year?

No. ESY services do not need to be provided in the exact manner (*i.e.* amount of hours, location, etc.) as the services are provided during the school year. The IEP Team should consider the student's identified critical skill/skill set and goals, and make service decisions accordingly.

3. Can ESY services be implemented in a more limited timeframe than specified in a student's IEP, if the LEA ensures that the total service hours delivered remains the same?

No. The schedule of the delivery of services must be consistent to the specification in the student's IEP. Exceptions to schedule changes can occasionally be made to accommodate the delivery of a previously missed service session. Any necessary changes to ESY service delivery should be made appropriately through the IEP amendment process.



NONREGULATORY GUIDANCE: EXTENDED SCHOOL YEAR SERVICES

4. Can one LEA contract with another LEA to provide ESY services?

Yes. LEAs can contract with each other to share resources for the delivery of ESY services. However, the LEA in which the student is enrolled maintains responsibility, at all times, for the timely and adequate delivery of services according to the IEP.

IV. Documentation of ESY Eligibility Determination, Service Designation, and Service Provision

1. What supporting documentation needs to be completed and uploaded into the Special Education Data System (SEDS) in order for OSSE to deem a student's ESY determination complete?

The LEA must complete the ESY section in the IEP, which includes questions regarding the eligibility determination, ESY services, and ESY goals. To adequately support the eligibility determination, the IEP Team must complete and upload the ESY criteria worksheet and any data that was used to support the regression/recoupment analysis. If the IEP Team determines that the student is eligible for ESY-related transportation services, then the LEA must complete and submit the appropriate student transportation form to OSSE-DOT. All documentation should be uploaded into SEDS no later than five (5) business days after the eligibility determination.

2. Are related service providers required to log summer ESY services in SEDS similar to the way they log related services provided during the school year?

Yes. Providers must log ESY service sessions, both for ESY services provided during the summer months and school year, into SEDS as they would for related service sessions provided during the school year.

3. How does an LEA fulfill the "closeout summary" requirement?

LEAs should use their last summer ESY progress report to summarize: 1) the degree of progress made on the student's ESY goal(s) and 2) the status of the identified critical skill(s) related to the anticipated level of regression and the time required for recoupment. All summer closeout summaries must be completed prior to the beginning of the next school year. At minimum, LEAs should submit closeout summaries for ESY services provided during the school year on a quarterly basis.

V. Certification of ESY Services Provided at Nonpublic Programs and ESY-Related Transportation Services

1. What is the purpose of the certification process?

The certification process serves two main purposes. The certification process serves as an affirmation that LEAs are aware of and participate in all ESY decisions, including those decisions made for students attending nonpublic programs, as required by OSSE's ESY Policy. The certification process also produces student data that allows OSSE to anticipate state level expenses related to nonpublic ESY services and ESY-related transportation services.

2. How does an LEA fulfill the certification process?

Every LEA must complete and submit the official ESY-certification forms that are updated annually and available at the OSSE's main website: osse.dc.gov. The completed forms must be submitted no later than the first Monday of May every year.

3. Should an LEA submit any certification materials if it does not have any students who are in need of summer nonpublic ESY services or summer ESY-related transportation services?

Yes. An LEA without any students in need of summer nonpublic ESY services or summer ESY-related transportation services should submit certification confirming that there are no students in need of services no later than the first Monday of May every year.



NONREGULATORY GUIDANCE: EXTENDED SCHOOL YEAR SERVICES

VI. Funding for ESY Services

1. Do LEAs get funding specifically for the provision of ESY services?

Yes. Funding for ESY services is covered under the Uniform Per Student Funding Formula (UPSFF). LEAs ensure adequate funding for ESY services by tracking and appropriately reporting the number of students requiring ESY services on an annual basis.

2. Can LEAs decline to provide ESY services for reasons related to funding?

No. Under the Individual with Disabilities Education Act (IDEA), LEAs are legally obligated to provide services to students with disabilities in accordance to their IEPs, irrespective of the financial cost. When determined appropriate by an IEP Team, ESY services are a part of providing FAPE to a student with an IEP. LEAs are expected to manage their annual budgets to accommodate for the anticipated costs associated with providing ESY services.

3. How do public charter schools provide adequate documentation to support certification of ESY decisions?

LEAs provide documentation to the Public Charter School Board (PCSB). This documentation includes an excel package which details the students' special education levels, the IEP signature page, the hours page, and the section of the IEP which states that ESY is required. The PCSB then provides data regarding the number and level of students receiving ESY services to the Office of the Chief Financial Office (OCFO). Once the OCFO confirms all the relevant information, it then approves the amount of funding that OSSE will provide to each LEA for ESY services.

VII. ESY Services for Students Attending Nonpublic Programs

1. Are nonpublic programs, including those with all year (or year-round) or 11-month programming, required to consider ESY services for all students with IEPs?

Yes. At minimum, eligibility for ESY services must be considered on an annual basis as part of the IEP process for every student with an IEP, including all students served by nonpublic programs. On a case by case basis, an IEP Team may determine that it is appropriate for a student who is attending an all year or 11-month program to receive ESY services outside of the regularly scheduled school day and/or during the short breaks that occur throughout the year.

2. Can a nonpublic program designate or require ESY services for all of its students?

No. ESY decisions for students served by nonpublic programs must be made, at minimum, on an annual basis by each student's IEP Team. According to 5-A DCMR §2844.12(a), to ensure placement decisions are made on an appropriate and individual basis, no student shall be placed in a nonpublic school program that requires all students to receive ESY services regardless of need or as a condition of enrollment.

3. When making ESY decisions for a student enrolled at a nonpublic program, does an IEP Team consider the school calendar of the nonpublic program or LEA?

The IEP Team should consider the school calendar of the nonpublic program that provides instruction and direct services to the student during the school year.

4. Are LEAs required to participate in IEP Team decisions regarding ESY services for students attending nonpublic programs?

Yes. The LEA must fulfill the mandatory role of the LEA representative either through direct participation or designee for all IEP Team determinations for students attending nonpublic programs, including those decisions regarding ESY services.



NONREGULATORY GUIDANCE: EXTENDED SCHOOL YEAR SERVICES

5. How do nonpublic programs document ESY decisions?

According to 5-A DCMR § 2808.2, nonpublic programs serving District of Columbia students must work with LEAs to maintain accurate, up-to-date, and complete student files in the Special Education Data System (SEDS). Student files must include IEPs that document all special education related decisions, including those decisions related to ESY services, and records pertaining to ESY service delivery and progress reporting on related goals.

6. Are nonpublic programs required to complete the ESY services criteria worksheet in SEDS?

Yes. The ESY eligibility criteria worksheet issued by OSSE applies to all ESY determinations made for District of Columbia students, including those attending nonpublic programs. Additionally, nonpublic programs serving District of Columbia students are bound by the same IEP process and documentation requirements as LEAs.

7. Does OSSE pay for ESY services provided to students during the summer months provided by nonpublic programs?

Yes. OSSE will pay for ESY services that occur during the summer months that are appropriately designated by an IEP Team, documented in the IEP, and certified by the student's LEA. According to 5-A DCMR §2850, nonpublic programs must submit ESY rates to OSSE for approval, no less than sixty (60) sixty days before the first date of expected ESY invoicing.

8. Will OSSE pay for summer school or summer programming provided by nonpublic programs?

Generally, OSSE will pay only for nonpublic summer school or summer programming that results in coursework credit.

9. How do nonpublic programs communicate ESY determinations to OSSE?

Nonpublic programs do not need to communicate ESY determinations directly to OSSE. However, nonpublic programs are required to ensure that LEAs are included in all IEP considerations including ESY decisions.

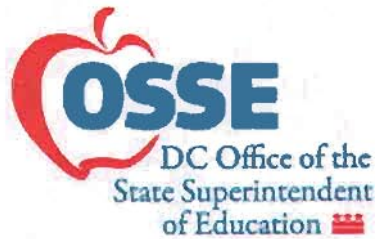
10. Who is responsible for providing ESY services to students attending nonpublic programs?

ESY services may be provided by either the nonpublic program or the LEA. However, if a nonpublic program is not operating during the scheduled times for ESY as determined by the IEP Team, it is ultimately the LEA's responsibility to ensure services are provided according to the terms of the IEP.

ADDITIONAL GUIDANCE

For additional information, please reference the "Extended School Year (ESY) Services Policy" located on the main OSSE website at <http://www.osse.dc.gov>. Please direct any questions regarding the content of this document to **Grace Chien, Director of Policy, at (202) 741-5089 or by email at Grace.Chien@dc.gov**. OSSE has the authority as the state educational agency (SEA) to issue additional guidance regarding LEA policy and related practice.

¹ Students who receive special education transportation services during the school year due to out of neighborhood school FAPE-related placement decisions may not be eligible for ESY-related transportation for the summer months if the student receives ESY services at their neighborhood school.



March 9, 2009

() Action Required
(X) Informational

MEMORANDUM NO. 09-004 Least Restrictive Environment and Inclusion Policy

TO: Local Education Agency Leaders

CC: Public Charter School Board

FROM: Deborah A. Gist
State Superintendent of Education

CONTACT: Tammie Picklesimer
Email: Tammie.Picklesimer@dc.gov
(202) 741-0274

RE: Least Restrictive Environment and Inclusion Policy

This policy is in reference to the Least Restrictive Environment requirements of the Individuals with Disabilities Education Act (IDEA). It supersedes all previous policy, memoranda and/or guidance promulgated by the State Education Agency. This policy takes effect on March 9, 2009.

Background

All children are entitled to an equal opportunity, to a high quality education and to be included in all aspects of society. The **No Child Left Behind Act (NCLB)** strongly emphasizes the importance of appropriate education for diverse learners and how critical rich curricula are in improving academic success for all children. Congressional intent during the 2004 reauthorization of the **Individuals with Disabilities Education Act (IDEA)** was to improve the quality of education children with disabilities were receiving in public schools and to overcome environmental and attitudinal barriers through equal access to the general education curriculum. Additionally, Congress continued to connect NCLB and IDEA by holding schools accountable for measuring academic performance for all students, including students with disabilities. Furthermore, Title II of the **Americans with Disabilities Act** and Section 504 of the **Rehabilitation Act** prohibit public schools and school systems from discriminating on the basis of disability and promote equal access to public education.

In accordance with the provisions of IDEA Part B, 34 CFR 300.604(a)(1), and (a)(3), (b)(2)(i) and (b)(2)(v), and (c)(2), the OSSE must monitor the number of hours special education students participate in the general education setting with the expectation of improving educational results and outcomes for all children with disabilities.¹ Today, the District of Columbia continues to score poorly on national measures of including children with disabilities in the general education classroom. According to the most recent comparative data from the US Department of Education, the District includes only 21 percent of students with disabilities in the general classroom for 80 percent or more of the day, compared to a national average of 58 percent. More District students with disabilities are educated in separate schools than in any other jurisdiction in the United States.² As a result of noncompliance with the federal Least Restrictive Environment requirements, the US Department of Education's Office of Special Education Programs (OSEP) placed the District of Columbia's IDEA grant funding under a Special Condition in federal Fiscal Year 2008.³

This Memorandum serves to clarify the expectations of the Office of the State Superintendent of Education (the OSSE) that every child with a disability residing within the District of Columbia receive an inclusive education that ensures equal opportunities to receive high quality instruction in the general education classroom. Enforcement of LRE is an effort to eliminate discrimination and promote the right for District children with disabilities to participate in all aspects of society, including public education.

Key Concepts to Inclusion

The requirements of IDEA as it references and promotes inclusion are as follows:

- **Free Appropriate Public Education**

IDEA requires that all children receiving special education services have access to and make meaningful progress in the general curriculum and have the right to full participation in all areas of school life. "Full participation" requires that children with disabilities have the "supplementary aids and services" necessary to assist them in participating in all areas of school life [34 C.F.R. §300.101].

- **Least Restrictive Environment**

IDEA mandates that to the maximum extent appropriate, all children with disabilities shall be educated with their non-disabled peers [34 C.F.R. §300.114]. "Maximum extent appropriate" means that each child with a disability is educated in the public school the

¹ <http://idea.ed.gov/explore/view/p/,root,dynamic,TopicalBrief,24>,

² http://www.ideadata.org/arc_toc9.asp#partbLRE

³ Grant award letter at <http://www.ed.gov/fund/data/award/idea/2008partb/dc-letter-2008b.doc>

child would attend if not disabled and has access to, and meaningful participation in, the general education curriculum unless the Individual Education Plan (IEP) determines that the nature of the child's disability is such that general education classes with the use of supplementary aids and services cannot be achieved satisfactorily.

- **Continuum of Service**

The 2004 IDEA regulations require that each LEA ensure that a "continuum of alternative placements" is available to meet the needs of children with disabilities. The continuum is a spectrum of placements where an IEP can be implemented. LEAs should consider placement in the general education classroom with appropriate supplementary aids and services before considering a more restrictive placement. Any alternative placement selected outside of the general education classroom must include appropriate opportunities for the child to interact with their non disabled peers to the maximum extent appropriate. The placement decision must always be based on the individual needs of the child.

- **Supplementary Aids and Services**

When contemplating educational placement, IDEA requires the IEP team to consider how the general education curriculum might be modified through the provision of supplementary aids and services to ensure accessibility of information as well enabling the child to be an active participant with their non disabled peers. Supplementary aids and services are "aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with non disabled children to the maximum extent appropriate in accordance with §300.114 through §300.116." [34 CFR §300.42] All supplementary aids and services determined necessary by the IEP team must be included in the child's IEP and implemented by the LEA.

The OSSE's Expectations for Inclusion

The OSSE defines inclusive practice as, **an environment in which all children, including those with significant disabilities, have an equal opportunity to receive a high quality instruction in the general education classroom, to the maximum extent possible, with the necessary supplementary aids and services the child needs to be successful in the general education curriculum.** Placement in an inclusive environment must be made available to every child with a disability. A general education classroom is inappropriate only if the child cannot achieve positive learning outcomes while receiving needed supplementary aids and supports services. Positive learning outcomes are measured by progress toward the goals of the child's IEP and not mastery of the general education curriculum. The LEA should not wait for the child to fail in the general education classroom before considering an alternative placement.

In an inclusive educational environment, general educators do not relinquish responsibility for students with special needs, but instead work cooperatively with special educators to provide a high quality program. Inclusive educational environments:

- Maintain high expectations for all children;
- Actively identify and capitalize upon student strengths;
- Pursue the most effective instructional methods to foster high levels of achievement;
- Regularly monitor student progress and redesign learning opportunities as needed;
- Collaborate with families and community members;
- Create educational programs that allow students with disabilities to participate fully in school life;
- Embrace diversity.

To be successful in implementing inclusive practices within the school, LEAs must promote collaboration and communication between general and special educators, parents, related service providers, and the community. Moreover, all teachers must have the opportunity to interact with one another to discuss and become aware of best practices in the field of education.

Technical Assistance and Training

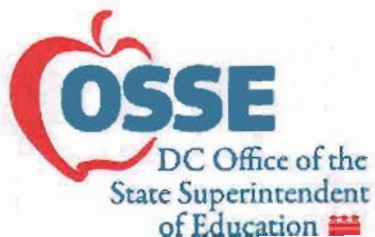
The OSSE is committed to ensuring that LEAs have the knowledge base and tools to implement inclusion and encourage all school staff, including teachers, administrators, and support staff, to obtain appropriate and consistent training. The OSSE will conduct a series of activities annually to support LRE, including, but not limited to:

- Providing clear written guidelines and toolkits for schools concerning specific inclusion strategies, to be made available through the State Advisory Panel on Special Education and via the OSSE website;
- Strengthening in-person professional development for school personnel; and
- Providing clarification on the use of supplementary aids and services in the regular classroom.

Compliance and Monitoring of Inclusive Practices

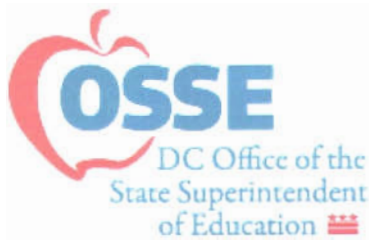
The U.S. Department of Education's Office of Special Education Programs (OSEP) requires every State Education Agency to monitor LEAs to ensure compliance with IDEA Part B, including the Least Restrictive Environment requirement.⁴ A Finding of noncompliance by the OSSE results in the requirement to submit an Improvement Plan containing Corrective Actions for each area of noncompliance. The OSSE may suggest or require training and technical assistance to LEA staff when crafting Corrective Actions around the LRE requirement. All items of noncompliance must, by

⁴ 34 CFR 300.600



federal law, be corrected within one year of the finding; sustained noncompliance by an LEA may result in withholding of Part B grant funding.

The OSSE is committed to ensuring all children with disabilities receive a free appropriate public education in the least restrictive environment. If you have questions or concerns regarding this memorandum, please contact Tammie Picklesimer, Director of Policy, Division of Special Education, at (202) 481-3870, or by e-mail at Tammie.Picklesimer@dc.gov.



January 5, 2010

(X) ACTION REQUIRED
() INFORMATIONAL

TO: Chancellor, District of Columbia Public Schools (DCPS)
Public Charter School Board
Public Charter School Directors
Principals, DCPS

FROM: Kerri L. Briggs, Ph.D. 
State Superintendent of Education

RE: Secondary Transition

CONTACTS: Amy Maisterra, Ed.D., Chief of Staff
Department of Special Education
Email: Amy.Maisterra@dc.gov
(202) 481-3757

This Memorandum serves to clarify what is required of all Local Education Agencies (LEAs) in order to ensure that the District of Columbia has in place secondary transition policies and procedures as required by the Individuals with Disabilities Education Act (IDEA) 2004, its implementing federal regulations, and Title 5, Chapter 30 of the District of Columbia Municipal Regulations (DCMR). This Memorandum supersedes all previous policy, memoranda and/or guidance promulgated by the state education agency.¹ This policy takes effect on January 2010.

BACKGROUND

The IDEA and DCMR clearly identify the roles and responsibilities of all LEAs to adequately prepare students with disabilities for postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation upon graduating or exiting high school. Furthermore, IDEA requires all LEAs to have in effect, by the student's 16th birthday, or younger if determined appropriate by the Individualized Education Program (IEP) team, a

¹ This Memorandum is not intended to be a restatement of the requirements of the IDEA and the DCMR in regard to secondary transition. LEAs are responsible for knowing and implementing the requirements of IDEA and the DCMR applicable to LEAs.

coordinated set of activities that is results-oriented and focuses on improving the academic and functional achievement of the student.²

Transition services are intended to prepare students to make the transition from school to adulthood and may be special education, if provided as specially designed instruction, or related services, if required to assist a student with a disability to benefit from special education.³ To assist with the transition process, the IEP team must consider appropriate services that would permit the student to leave secondary school with the necessary skills to achieve the transition goals determined by the IEP team. The entire transition process is a set of coordinated activities that is outcome-oriented and based on an individual transition assessment.

KEY TERMS/ACTIVITIES

- Course of Study. Prior to entering the ninth grade, but no earlier than eighth grade, the IEP team must determine the course of study and develop a graduation plan.⁴ A course of study is defined as a description of the coursework necessary to prepare the student for post-school activities. The course of study must be reviewed annually and modified, when necessary, to reflect the student's changing needs, interests, and performance. The LEA must provide all students with disabilities, including students with significant disabilities, the opportunity to earn a high school diploma. If the IEP team determines a high school diploma is not appropriate, then the course of study must assist the student in achieving an alternative to a high school diploma. The LEA must provide information in understandable language to the parents and student about the difference between having a diploma versus a non-diploma course of study. Additionally, the LEA must provide the parents with written notification that the IEP team has determined that the student will be placed on a non-diploma course of study. The LEA must obtain the parents' written acknowledgement that the parents have been informed and understand that the student will be placed on a non-diploma course of study. The IEP must contain a statement on why a standard diploma is not appropriate and that the parents and student have been fully informed of such decision. A transition plan and graduation plan are required regardless of whether the student is on a non-diploma or diploma track.

Consistent with the student's graduation plan, each IEP for a student with a disability, who will be 16 or older during the time period of the IEP, or younger if determined appropriate by the IEP team, must also contain a description of the course of study needed to assist the

² 34 C.F.R. §300.43(a)(1) and §300.320(b); DCMR 5-3001

³ 34 C.F.R. §300.43(b); DCMR 5-3001

⁴ 5 DCMR 2203.1

student in preparing for his/her post-school activities. To the extent consistent with the student's post-school goals, the course of study must ensure each student has the knowledge and skills to qualify for and successfully complete a two or four-year postsecondary program, technical/vocational program, apprenticeship, or on-the-job training leading to a postsecondary credential (i.e. certificate, license, Associates, or Bachelor's degree). Each year the IEP team must reconsider the student's post-school goals and align the course of study with those desired goals. Decisions regarding the course of study should relate directly to the student's current level of performance and what he/she intends to do after graduation. Specifically the course of study should:

- Improve the academic and functional achievement of the student to facilitate his/her movement from secondary to post-school;
- Align with the student's transition goal(s); and
- Align with the academic requirements for a high school diploma, or if determined eligible, a Certificate of Completion.

Students placed in a nonpublic residential or day school must have the same opportunities for a high quality education as students in a traditional secondary setting. The LEA in which the student is enrolled remains responsible for ensuring the course of study is consistent with the student's transition plan, which should be consistent with all diploma or Certificate of Completion requirements.

- Transition Assessment. The LEA must conduct age-appropriate transition assessment(s) at a minimum in the areas of education, training, and employment, and, where appropriate, independent living.⁵ Types of transition assessments include but are not limited to: behavioral assessment information, aptitude tests, interest and work values inventories, personality or preference tests, career maturity or readiness tests, self-determination assessments, work-related temperament scales, vocational assessment, and transition planning inventories.⁶

The purpose of transition assessment(s) is to provide information to the IEP team in developing and writing practical, achievable, and measurable post-school goals; and assist in the identification of transition services necessary in helping the student reach those

⁵ 34 C.F.R. §300.320(b)

⁶ National Secondary Transition Technical Assistance Center
http://www.nsttac.org/products_and_resources/tag.aspx

goals. The transition assessment must be conducted prior to the student reaching age 16 and before the development of the post-school goals and transition services in the student's IEP. The transition assessment must support each post-school goal and provide information regarding the student's needs, strengths, preferences, and interests. The LEA must ensure transition assessments are an ongoing process of collecting data that adequately captures the student's current reading, math, and communication ability, needs, preferences, and interests. The transition assessment should indicate, at a minimum, the following:

1. What the student would like to do beyond secondary school (e.g., further education or training, employment, military, continuing or adult education);
 2. Where the student would like to live (e.g., dorm, apartment, family home, group home, supported or independent living);
 3. How the student would like to take part in his/her community (e.g., transportation, recreation, community activities, etc.).
- Transition Goals. Beginning no later than the first IEP to be in effect when the student turns 16, or younger if determined appropriate by the IEP team, and updated annually, the IEP must contain:
 1. Appropriate measurable postsecondary goal(s) based upon age-appropriate transition assessments related to:
 - a. Education,
 - b. Training,
 - c. Employment after high school, and
 - d. Independent Living Skills (when appropriate⁷);
 2. Transition services, including appropriate courses of study, needed to assist the student in reaching the stated postsecondary goals; and
 3. A statement of needed transition services for the student, including, when appropriate, a statement of the interagency responsibilities or any needed linkages.⁸

⁷ It is up to the student's IEP team to determine whether IEP goals related to the development of independent living skills are appropriate and necessary for the student to receive FAPE.

⁸ 34 C.F.R. §300.320(b)

Failure to provide transition services. If a participating agency, other than the LEA, fails to provide the transition services described in the IEP and in accordance with IDEA requirements, the LEA must reconvene the IEP team, or amend the IEP to identify alternative strategies to meet the transition goals.⁹

- Coordinated Set of Activities. The IEP team must consider in the development of the IEP, a coordinated set of activities to assist the student in reaching his/her post-school goals. Specifically, the activities must be based on the individual student's needs, taking into account the student's preferences and interests. Furthermore, the IEP team must consider:
 1. If the student is younger than 18 years of age, appropriate parental involvement in the student's transition;
 2. If the student is at least 18 years of age, appropriate parental involvement in the student's transition, if the parent is invited to participate by the adult student or the LEA;
 3. A functional vocational evaluation and training;
 4. Acquisition of daily living skills, if appropriate;
 5. Any postsecondary education options;
 6. Integrated employment, including supported employment;
 7. Independent living goals and objectives;
 8. Continuing and adult education;
 9. Adult services;
 10. Appropriate circumstances for referring a student or the student's parents to a governmental agency for services.
- IEP Team. The LEA is responsible for ensuring each student with a disability has in place appropriate, measurable, post-school goals by age 16. To ensure the student's transition goals are relevant and individualized and to the extent appropriate, the LEA must invite a representative from the District of Columbia Rehabilitation Services Administration (DC RSA) and other public agencies that are likely to be responsible for providing or paying for transition services.¹⁰ The parents, or adult student, must provide consent for the LEA to invite any such agencies.¹¹ In addition, the LEA must invite the student to the IEP team meeting and document the measures it has taken to invite the student.¹² If the student is

⁹ 34 C.F.R. §300.324(c)

¹⁰ 34 C.F.R. §300.321(b)(3)

¹¹ 34 C.F.R. §300.321(b)(3)

¹² 34 C.F.R. §300.321(a) and (b)(1) and 34 C.F.R. §300.322(a)(2)(B)

unable to attend, the LEA must take other steps to ensure the student's preferences and interests are considered.¹³

Parental consent (or consent by an adult student) must be obtained before personally identifiable information is released to officials of participating agencies that provide or pay for transition services¹⁴ to ensure the protection of confidentiality of any personally identifiable data, information and records collected or maintained by the LEA. Although the LEA has the responsibility to invite (after receiving parent or adult student consent) individuals from other agencies, the LEA does not have the authority to require the other agency representative to attend the IEP meeting.

- Summary of Performance. A Summary of Performance (SOP) is required under the reauthorization of IDEA of 2004 and should be provided to the student no later than 60 days prior to graduation or the age at which the student exceeds the District of Columbia's age eligibility for Free Appropriate Public Education (FAPE);¹⁵ the LEA must ensure each student is provided, at no cost, a SOP. The SOP must include a summary of the student's academic achievement, cognitive, and functional performance; and recommendations on how to assist the student in meeting his/her post-school goals.¹⁶ The information provided in the SOP and accompanying documentation is important to assist the student in establishing eligibility for reasonable accommodations and supports in postsecondary settings and other public agency programs. Typically, an IEP and/or SOP alone are not sufficient documentation of a disability; therefore, accompany documentation such as a psychological or neuropsychological report (no more than three years old) is recommended and should be included. The SOP is most useful when the student (and parents when appropriate if the student is 18 years or older) has the opportunity to actively participate in the development of the document.
- Prior Written Notice. Prior to the student completing the last semester of secondary school in which he/she is expected to graduate with a diploma or a certificate of completion, the LEA must provide the student (if over age 18) AND the parents with a Prior Written Notice (PWN) of the discontinuation of services at the end of the school year. The PWN must clearly state that the student will no longer be entitled to receive special education services from the LEA.¹⁷

¹³ 34 C.F.R. §300.321(b)(2), 5 DCMR 3003.4(b)

¹⁴ 34 C.F.R. §300.622(b)(2)

¹⁵ 5 DCMR 3000

¹⁶ 20 U.S.C. 1414(c); 34 C.F.R. §300.305(e)(3)

¹⁷ 34 C.F.R. §300.102(a)(3)(iii)

- Transfer of Rights at Age of Majority. Beginning not later than one year before the student reaches the age of 18 (except for a student who has been determined to be incompetent under District of Columbia Law)¹⁸; the LEA must provide notice to both the student and the student's parents of the rights under Part B of IDEA that will transfer to the student upon reaching the age of 18. Additionally, the student's IEP must include a statement that the student and parents have been informed.¹⁹ When the student reaches 18, the LEA must provide notice to the student and the student's parents of the transfer of rights as part of the procedural safeguards.²⁰ The rights regarding educational records must also be transferred to the student and the LEA must include a statement indicating such transfer in the notice.²¹
- Data Collection Requirements. The OSSE is responsible for administering within one (1) year of leaving high school a follow up survey for each student who had an IEP and is no longer in secondary school.²² Each LEA is responsible for providing the OSSE accurate demographic information prior to the student graduating or exiting high school.
- Monitoring and Compliance. Each LEA must certify and provide to the OSSE no later than July 31 of the current year, the total number of youth with IEPs aged 16 and above which had appropriate transition goals and services as outlined in this policy, DCMR, and IDEA.

Compliance and Monitoring

The U.S. Department of Education's Office of Special Education Programs (OSEP) requires that every State Education Agency to monitor LEAs to ensure compliance with IDEA Part B, including timely evaluations and reevaluations.²³ A finding of LEA noncompliance by the OSSE results in the requirement to submit an improvement plan containing corrective actions for each area of noncompliance. The OSSE may also recommend or require training and technical assistance to LEA staff when crafting corrective actions. All items of noncompliance must, by federal law, be corrected within one year of the finding; sustained noncompliance by an LEA may result in sanctions that include potential withholding of Part B grant funding.²⁴

Further Guidance, Training and Technical Assistance

¹⁸ 34 C.F.R. §300.520(a)(1)(ii); 5 DCMR 3023

¹⁹ 34 C.F.R. §300.320(c)

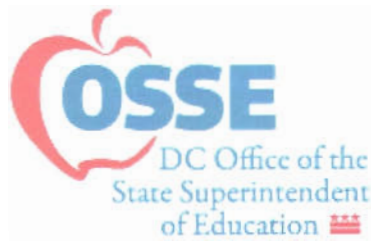
²⁰ 34 C.F.R. §300.520(a)

²¹ 34 C.F.R. §§300.613 through 300.624; 34 C.F.R. § 300.625(c)

²² National Dissemination Center for Children with Disabilities: www.nichcy.org

²³ 34 C.F.R. §300.600

²⁴ 34 C.F.R. §300.604(a)



The OSSE is committed to ensuring that LEAs have the knowledge base and tools to conduct timely and appropriate evaluations and reevaluations. The OSSE will conduct activities to support LEA compliance, including, but not limited to:

- Clear written guidelines for schools on this issue, containing specific scenarios and examples; answers to frequently asked questions; and clarity concerning the use of the State Special Education Data System (SEDS) to document evaluations and reevaluations.
- In-person professional development for school personnel to ensure knowledgeable implementation.

If you have questions or concerns regarding this Memorandum, please contact Amy Maisterra, Chief of Staff, Department of Special Education, at (202) 481-3870, or by e-mail at amy.maisterra@dc.gov.



November 6, 2013

Dear Local Education Agency (LEA) Leaders,

The Office of the State Superintendent of Education (OSSE) is committed to improving the quality and delivery of special education transportation services provided to students with disabilities in the District of Columbia. To this end, OSSE worked with LEAs and other stakeholders to satisfy all requirements to successfully exit of the *Petties v. DC* case. OSSE now seizes the opportunity to further accelerate reform by issuing a robust Special Education Transportation Policy and supporting LEAs with implementation.

The enclosed Special Education Transportation Services Policy was originally proposed on November 23, 2010 and was open for extended public comment until February 7, 2011. After considering stakeholder feedback and making substantive changes, the Policy was proposed a second time on May 3, 2013, and public hearings were held on May 21, 2013 and May 28, 2013. Public comments were collected from May 3, 2013 through July 2, 2013. The effective date of the Special Education Transportation Services Policy is January 6, 2013¹.

The new Policy assists LEAs in providing a free appropriate public education (FAPE) to all students with disabilities who have transportation designated as a related service via their Individualized Education Program (IEP) by:

- Establishing state-level criteria that assist Individualized Education Program (IEP) Teams in making appropriate eligibility decisions.
- Clarifying LEA responsibilities, and establishing documentation and procedural requirements that enable the timely coordination between LEAs and the Division of Transportation (OSSE-DOT).
- Establishing a bi-annual LEA certification requirement that enables OSSE-DOT to use student-level data to successfully prepare for the provision of special education transportation services during the extended school year (ESY) summer months and the start of school every year.

The final issuance of the Policy features changes that resulted from the thoughtful consideration of stakeholder feedback and public comments. Highlights of some of the key changes made between the 2011 and 2013 proposals are listed below:

- *Accommodating students in foster care or residing in group homes.* The final Policy clarifies that exceptions to the bus routing requirements will be

¹ One exception to the effective date is the Policy requirement related to pick up and drop off locations. This requirement becomes effective in the 2014-2015 school year, in order to ensure that parents have adequate notice and can plan accordingly.



considered on a case-by-case basis for students in foster care or residing in group homes, taking into account the unique circumstances of these students and the importance of minimizing disruption.

- *Removing distance parameters.* Based on stakeholder feedback, the final Policy no longer has minimum distance considerations built into the eligibility framework. Rather, the Policy emphasizes the individualized nature of IEP Team decisions that are supported by up-to-date student-level data.
- *OSSE-DOT participation in settlement agreements.* The final Policy clarifies that OSSE-DOT will provide special education transportation services according to terms of a settlement agreement, but will not pay for costs associated with settlement agreements lacking OSSE-DOT participation. This arrangement reiterates the importance of OSSE-DOT involvement in settlement agreements that include transportation considerations, without negatively impacting the educational needs of students.
- *Heightened parent notice requirements.* Based on stakeholder feedback, the final Policy provides for same-day notification to parents and LEAs in instances when the health, safety, or conduct of a student rises to a level of concern that makes transport unmanageable. Same-day notice will allow parents and LEAs to respond in a timely manner to address and resolve concerns, so that special education transportation services can be appropriately reinstated.
- *Consequences of untimely certification.* According to the Policy, in the event of untimely certification by the LEA, OSSE-DOT will provide transportation services and the LEA will be responsible for the costs of transportation. This arrangement reiterates the importance of timely LEA certification, without negatively impacting the educational needs of students.
- *Provider cost responsibility.* The initial Policy proposed that LEAs be responsible for employment and cost of related service providers on the bus. In the final policy, OSSE-DOT will continue to employ and pay for related service providers on the bus, to give LEAs time to develop their capacity to provide these services.
- *Routing Requirements:* In order to ensure student safety, the Policy clarifies that OSSE-DOT will provide round trip service to the same address that is used to establish residency rather than multiple and/or non-verified addresses. As noted above, based on stakeholder feedback regarding the need for sufficient notice to ensure that families are prepared for this change, OSSE is delaying the effective date of this component of the Policy until the start of the 2014-2015 SY.

We encourage you to participate in two upcoming opportunities to learn more about the Policy and ensure effective implementation. The first opportunity is a focus group open to LEAs interested in giving feedback on the special education transportation eligibility worksheets that will be required as part of the IEP Process in the Special Education Data System (SEDS). The second opportunity is a comprehensive, full-day training that includes separate components addressing the new policy requirements,





programmatic implementation, SEDS updates, and Transportation Online Tool for Education (TOTE) system alignment.

The focus group will take place on Tuesday, November 19, 2013 from 9:00am-12:00pm at 810 1st Street, NE, 8th Floor. We are requesting that LEAs RSVP by emailing Melanie Grant at melanie.grant@dc.gov by Friday, November 15, 2013.

The three full-day training sessions will be held at 810 1st Street, NE. LEA staff may register for a session via the links below:

Monday, December 9, 2013

810 1st Street, NE, 8th Floor

8:30am – 4:30 pm

Registration Link: <http://www.cvent.com/d/h4q8gr/4W>

Thursday, December 12, 2013

810 1st Street, NE, 8th Floor

8:30am – 4:30pm

Registration Link: <http://www.cvent.com/d/34qk86/4W>

Wednesday, December 18, 2013

810 1st Street, NE, 3rd Floor

8:30am – 4:30 pm

Registration Link: <http://www.cvent.com/d/k4q8gv/4W>

We look forward to working with you to support full implementation of this Policy. Please do not hesitate to contact me or my team with any questions you may have.

Sincerely,

Jesús Aguirre

Acting State Superintendent of Education

Enclosure





Office of the State Superintendent of Education ★ District of Columbia

Special Education Transportation Policy



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INTRODUCTION

The purpose of this document is to establish a uniform system of standards and procedures for special education transportation services in the District of Columbia that is consistent with the **Individuals with Disabilities Education Act (IDEA)** requirement to provide a **free, appropriate public education (FAPE)** to all students with disabilities. This purpose is accomplished through:



Establishing state-level criteria that assist Individualized Education Program (IEP) Teams in making appropriate eligibility decisions.



Clarifying local education agency (LEA) responsibilities, and establishing documentation and procedural requirements that enable timely coordination between LEAs and OSSE's Division of Student Transportation (OSSE DOT).



Establishing a bi-annual LEA certification requirement that enables OSSE DOT to prepare for the provision of extended school year (ESY) related transportation services during the summer months and special education transportation services at the start of each school year.

It is the expectation of the Office of the State Superintendent of Education (OSSE) that all LEAs adhere to this Policy. OSSE DOT shall provide special education transportation services to students with disabilities when transportation is appropriately identified and documented on an IEP as a related service under the IDEA. With the exception of the pick-up and drop-off residency address requirement, this Policy is effective as of January 6, 2014. The pick-up and drop-off residency address requirement will become effective at the start of the 2014-2015 school year.

MONITORING AND COMPLIANCE

The **U.S. Department of Education's Office of Special Education Programs (OSEP)** requires that every state education agency (SEA) monitor local educational agencies (LEAs) to ensure compliance with Part B of the Individuals with Disabilities Education Act (IDEA). A finding of LEA noncompliance by OSSE will result in corrective actions for each area of noncompliance and may result in the requirement to submit an improvement plan. OSSE may also recommend or require training and technical assistance for LEA staff when crafting corrective actions. All items of noncompliance shall, by federal law, be corrected within one year of the finding; sustained noncompliance by an LEA may result in sanctions that include potential withholding of Part B grant funding.¹ Consistent with the IDEA and its regulatory framework, all LEAs shall comply with monitoring requirements established annually by OSSE, which include the collection and submission of both quantitative and qualitative data that support monitoring for regulatory

¹ 34 C.F.R. § 300.600(a)(3)

compliance and programmatic quality. Additionally, a subset of LEAs will be selected for OSSE's annual monitoring process. OSSE, in its role as SEA, ensures FAPE by meeting with other public agencies providing education services to children with disabilities to review and discuss the delivery of special education services. If any noncompliance is identified during OSSE's review, the public agency will be asked to take corrective action, as appropriate.

ELIGIBILITY CATEGORIES FOR SPECIAL EDUCATION TRANSPORTATION SERVICES

It is the responsibility of the IEP Team to determine, on an individual basis, whether transportation is required to assist a student with a disability with accessing special education and related services, and if so, how the transportation services should be implemented. The intent behind special education transportation services is to ensure that children with disabilities receive transportation when it is necessary to enable the child to receive FAPE. It is inappropriate for IEP Teams to designate special education transportation services for the primary purpose of facilitating daily attendance or mitigating the increased distance between a student's residence and a school location which results from non-FAPE related parent choice/enrollment decisions.

OSSE has established the following eligibility categories that IEP Teams shall use in making special education transportation eligibility determinations and supporting related services designations. An IEP Team shall find that a student meets the requirements under at least one eligibility category before determining that the student is eligible to receive special education transportation services. LEAs have the duty to reevaluate and document a student's changing needs over time.² Therefore, the IEP Team shall review and determine a student's need for special education transportation at least once annually as part of the IEP process.³



DEFINITION OF TRANSPORTATION IN THE CONTEXT OF SPECIAL EDUCATION

In the context of special education, *transportation* is a related service¹ that includes: travel to and from school and between schools; travel in and around school buildings; and specialized equipment such as special or adapted vehicles,² lifts and ramps, if they are required to provide transportation for a student with a disability.³ Special education transportation services shall be provided in accordance with a student's IEP, and at no cost to the parents of a student.⁴

¹ 34 C.F.R. §300.34(a)

² The IDEA does not require transportation on special or adapted buses for all students with disabilities who are eligible to receive transportation. The use of special or adapted buses is only required where specified by the IEP Team. See 71 Fed. Reg. 46576 (Aug. 14, 2006).

³ 34 C.F.R. §300.34(c)(16)

⁴ 34 C.F.R. §300.34(a); 20 U.S.C. §1412(a)(1)(A); 34 C.F.R. §300.101

Eligibility Category 1: Medically Fragile Students (MFS) Requiring Transportation to Access FAPE

Medically fragile students may be eligible for special education transportation services. In the context of special education transportation services, the term **medically fragile** applies to students who cannot travel safely without a specialized or adapted vehicle due to a documented medical condition.⁴ In the context of special education transportation services, the term **specialized or adapted vehicle** refers to a vehicle that has specialized equipment such as a specialized seat or seatbelt, positioning device, or wheelchair lift/ramp. OSSE DOT is responsible for providing specialized equipment when such equipment is deemed necessary by a student's IEP Team. OSSE DOT is not responsible for providing assistive devices (e.g. wheel chairs, crutches, walkers), which constitute personal equipment belonging to the student. (More information on assistive devices is provided on **page 9 of this Policy**.)

² 34 C.F.R. §§ 300.301 and 300.303

³ 34 C.F.R. § 300.324(b)

⁴ Distance is not an appropriate factor of consideration under the Medically Fragile Student (MFS) eligibility category.

Not all students with medical conditions are eligible for special education transportation services under the MFS category. To determine if a student is eligible for special education transportation services under the MFS category, the IEP Team shall review the student's medical history to consider any data that substantiates the existence of a chronic or persistent medical condition. An IEP Team that finds evidence of a documented chronic or persistent medical condition shall assess the impact of the medical condition on the student's ability to travel safely without a specialized or adapted vehicle or specialized medical equipment. IEP Teams should consider factors such as:



The severity of the student's medical condition (*i.e.* Does the student's medical condition require constant monitoring?);



The student's reliance on specialized medical equipment that is not readily transportable in a standard or non-adapted vehicle (*e.g.* oxygen delivery device, tracheotomy tube, feeding tube);



The student's need for health-related services (*e.g.* health-related assistance from an aide, nursing services);



The student's mode of transportation outside of school (*i.e.* Does the student travel safely in standard/non-adapted vehicles or access public transportation during week nights or weekends?); and



The restrictiveness of student activity during the school day (*i.e.* Is it safe for the student to participate in common physical activities during recess or physical education without specialized equipment or the aid of additional school personnel?).

Students who do not have a chronic or persistent medical condition, or who have a medical condition that does not prevent the student from traveling safely in a standard or non-adapted vehicle, are not eligible for special education transportation services under the MFS category.

An IEP Team that determines that a student is eligible for special education transportation services under the MFS category shall provide a written justification for its determination using the appropriate eligibility worksheet in SEDS, indicate its decision in the student's IEP, and substantiate its decision by obtaining a physician's note or by reviewing current medical evaluation data from the past year. The IEP Team shall also determine if the student requires specialized equipment on the OSSE DOT vehicle and/or any additional supporting related services (*e.g.* health services, aide assistance) on a case-by-case basis, and shall similarly document the need for such equipment and/or services by obtaining a physician's note or by reviewing current medical evaluation data from the past year and providing a written justification for the IEP Team's decision. The IEP Team must designate any specialized equipment and/or supporting related services in the student's IEP. The LEA shall upload all documentation into the **Special Education Data System (SEDS)** and the **Transportation Online Tool for Education (TOTE)**, as appropriate, within five (5) business days of the eligibility determination.

In assessing students under the MFS category, the IEP Team should consider whether it is appropriate to transport the student at all. Although uncommon, it is possible that a student's medical condition is so severe that he or she cannot be transported without presenting a serious risk to his or her personal health and safety. Under such circumstances, it may not be appropriate to provide services in a traditional school setting, but rather the student may need to receive services at the family's home, a hospital, or some other facility. In these cases, an IEP Team may determine that the family's home, a hospital, or other facility is the appropriate **least restrictive environment (LRE)** for a student.

Eligibility Category 2: Students Requiring Structured Transportation Supports (STS) to Access FAPE

Students with intellectual/cognitive, emotional, sensory/communication, or physical needs significant enough to prevent safe travel without structured transportation supports may be eligible for special education transportation services. The phrase **structured transportation supports** refers to a non-medical accommodation and/or form of assistance that addresses safety concerns such as unsafe behavior, compromised decision-making, or impaired navigation resulting from the child's disability.⁵

To determine whether a student is eligible for special education transportation services under the STS category, the IEP Team shall review the student's most recent functional assessment and evaluation data. An IEP Team that finds evidence of documented intellectual/cognitive, emotional, sensory/communication, or physical needs, related to disability, shall assess the impact that the disability has on the student's ability to travel safely without structured transportation supports. The IEP Team should consider factors such as:



The severity of the student's disability (*i.e.* Does the manifestation of the student's disability require constant supervision?);



The student's documented deficit in assessing risk or advocating for personal safety;



The student's behavior as it relates to any history of the student being dangerous to self or others;



The student's ability to understand cues and instructions (*e.g.* ability to understand street signs/signals or navigate an established route); and



The student's need for structured transportation supports during travel outside of school (*i.e.* Does the student travel safely without structured transportation supports during week nights or weekends?).

A student who has a disability that does not prevent the student from traveling safely without structured transportation supports is not eligible for special education transportation services under the STS category. An IEP Team that determines that a student is eligible for special education transportation services under the STS category shall provide a written justification for its determination using the appropriate eligibility worksheet in SEDS, indicate its decision in the student's IEP, and substantiate its decision by obtaining a note from an appropriate evaluator or summarizing the nature of the student's disability that warrants the eligibility determination. The IEP Team shall also determine if the student requires specialized equipment on the OSSE DOT vehicle and/or any additional supporting related services (*e.g.* aide assistance) on a case-by-case basis and shall similarly document the need for such equipment and/or services by obtaining an evaluator's note or by reviewing current evaluation data from the past year⁶ and providing a written justification for the IEP Team's decision. The IEP Team must designate any specialized equipment and/or supporting related services in the student's IEP. The LEA shall upload all documentation into SEDS and TOTE, as appropriate, within five (5) business days of the eligibility determination.

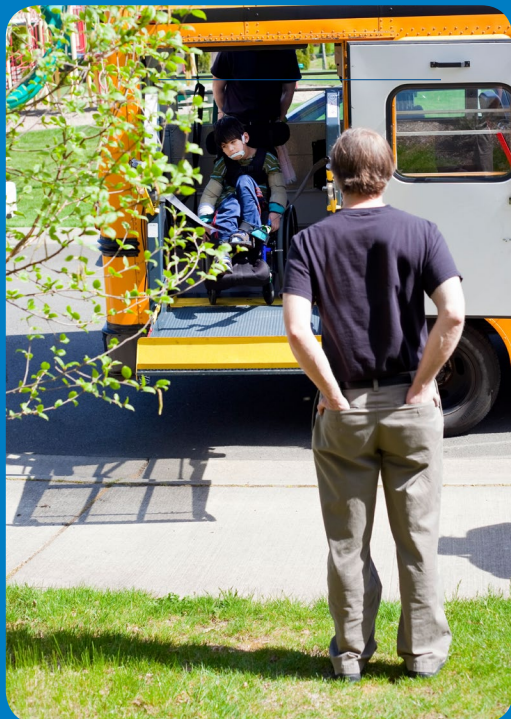
⁵ Distance is not an appropriate factor of consideration under the Structured Transportation Supports (STS) eligibility category.

⁶ IEP Teams do not need to order a new evaluation if current evaluation data exists in the student's record that can be accurately summarized.

Eligibility Category 3: Students Accessing Specialized Program (ASP) to Access FAPE

Students who are not eligible under the MFS or STS categories may be eligible for special education transportation services if they are traveling to a school site for the purpose of accessing a specialized program due to an IEP Team placement decision. Students who elect to attend a school or program for non-FAPE related reasons (e.g. parent's school of choice, out of boundary lottery) are not eligible for special education transportation services under the ASP category. District of Columbia Public Schools (DCPS) is responsible for providing transportation to parentally-placed private school students receiving equitable services.

The term **specialized program** refers to a special education instructional setting, within an LEA or nonpublic school, in which the student is instructed apart from the general education population for the majority of the school day (e.g. separate special education classroom, separate school designed specifically for students with disabilities). To determine eligibility under the ASP category, the IEP Team shall review the student's special education record to ascertain whether the student's current program is a specialized program that an IEP Team has determined is the appropriate least restrictive environment (LRE) for the student, as evidenced by **prior written notice (PWN)** documenting the change in placement.⁸ An IEP Team that determines that a student is eligible for special education transportation services under the ASP category shall provide a written justification for its determination using the appropriate eligibility worksheet in SEDS, indicate its decision in the student's IEP, and substantiate its decision by uploading the applicable PWN. The LEA shall upload the PWN and, in the case of placement into a nonpublic program, the OSSE location assignment, into SEDS and TOTE, as appropriate, within five (5) business days of the eligibility determination.



TRAVEL TRAINING

Travel training is specialized instruction¹ that enables students with disabilities who require this instruction to develop an awareness of the environment in which they live and to learn the skills necessary to move effectively and safely from place to place within that environment.² Both special education transportation and travel training are important services that IEP Teams shall consider when they plan for a student's postsecondary transition needs. IEP Teams must formally consider a student's secondary transition needs when the student turns sixteen (16) years old, or younger, if determined appropriate.³ LEAs are responsible for providing travel training to a student as a part of FAPE if such services are designated on the IEP.

¹ Transportation is included as a related service under the IDEA regulations in **34 CFR § 300.34(a) and (c)(16)**. Travel training is included in the definition of special education in **34 CFR §300.39(a)(2)(ii)**, and is specifically defined in **§300.39(b)(4)**.
Travel training is not a related service.

² **34 C.F.R. §§ 300.39(a)(2)(ii) and 300.39(b)(4)**

³ **34 C.F.R. §§ 300.320(b) and 300.43(a)(I)**



METRO FARE CARDS

Students eligible for special education transportation under the ASP category, who are over the age of twelve (12) years old, generally are not transported on an OSSE DOT vehicle and will instead receive Metro fare cards for public transportation (rail or bus). An IEP Team may, however, determine that public transportation is not appropriate due to safety concerns or lack of feasible public transit options. An IEP Team that determines that public transportation is not appropriate for a student over the age of twelve (12) years old, eligible under the ASP category, shall justify in writing the need for OSSE DOT transport.

⁷ **34 C.F.R. § 300.139(b); 71 Fed. Reg. 46596**

⁸ Nonpublic placements should be located as close as possible to the student's home residence. **34 C.F.R. § 300.116(b)(3)**



ORDERED TRANSPORTATION

Court Ordered/IDEA Hearing Officer Determinations (HODs). Special education transportation services that have been ordered by a District of Columbia court, a federal court, or by a hearing officer in an administrative due process case (HOD) fall outside of OSSE's eligibility category framework. Under these circumstances, an IEP Team is required to document in the student's IEP that the student qualifies for special education services through a court order or HOD. The order or HOD must be uploaded to SEDS to fulfill the documentation requirement. Once the court order or HOD expires or ceases to be in effect, an IEP Team shall use OSSE's eligibility determination framework to consider student eligibility for special education transportation services. LEAs are responsible for monitoring court orders and HODs to ensure that a valid court order, HOD, or IEP Team eligibility determination is in effect at all times. If the court order or HOD does not include effective dates or indicate the duration of time for which special education transportation services are ordered, an IEP Team's responsibility to review and determine eligibility for special education transportation services on an annual basis shall resume after one full year of court order/HOD implementation. LEAs are responsible for reimbursement costs related to the provision of special education transportation services that arise out of court orders or HODs that determine that the LEA has failed in its obligation to provide FAPE. If a court order or HOD finds that the student has been denied FAPE by the LEA which is attributable to a failure by OSSE DOT to provide special education transportation services in accordance with the student's IEP, OSSE DOT will be responsible for reimbursing the transportation costs in accordance with the order or HOD.

Settlement Agreements. LEAs must include OSSE DOT in all settlement agreement meetings that involve potential designation of special education transportation services. LEAs are responsible for costs related to the provision of special education transportation services agreed to by the LEA without input or approval by OSSE DOT. LEAs will be invoiced for the costs of transportation arising out of settlement agreements which have been entered into by the LEA without OSSE DOT's written consent. Any designation of special education transportation services that arise out of a settlement agreement must be based upon a determination that the eligibility criteria set forth in this Policy are met. In cases in which the Parties agree that parents should be reimbursed for special education transportation costs related to an LEA's violation of FAPE, LEAs are responsible for these reimbursement costs.



STUDENT CONDUCT ON THE BUS

Repeated student misconduct on the bus may result in revocation of bus services. In such cases, OSSE DOT will send a same-day notice to both the LEA and parent describing the student's misconduct and the resulting consequence. Upon receipt of a notice advising of revocation of bus services or in cases in which similar behavior issues extend into the school day, LEAs are responsible for convening an IEP Team meeting to review the student's IEP to consider the use of positive behavioral interventions, supports, and strategies to address the behavior,¹ and to consider other appropriate disciplinary consequences in accordance with the LEA's code of conduct and the procedural safeguards under IDEA Part B.² DOT will provide alternative transportation in the form of parent reimbursement in any case of revocation from the bus that lasts longer than ten (10) consecutive school days or ten (10) cumulative school days in a school year. In cases of extreme infractions (e.g. possession of a weapon, repeated threats of violence, unsafe behavior that threatens the safety of others or self), OSSE DOT may revoke bus services for the remainder of the school year and provide alternative transportation in the form of **parent reimbursement (more info on page 10)**.

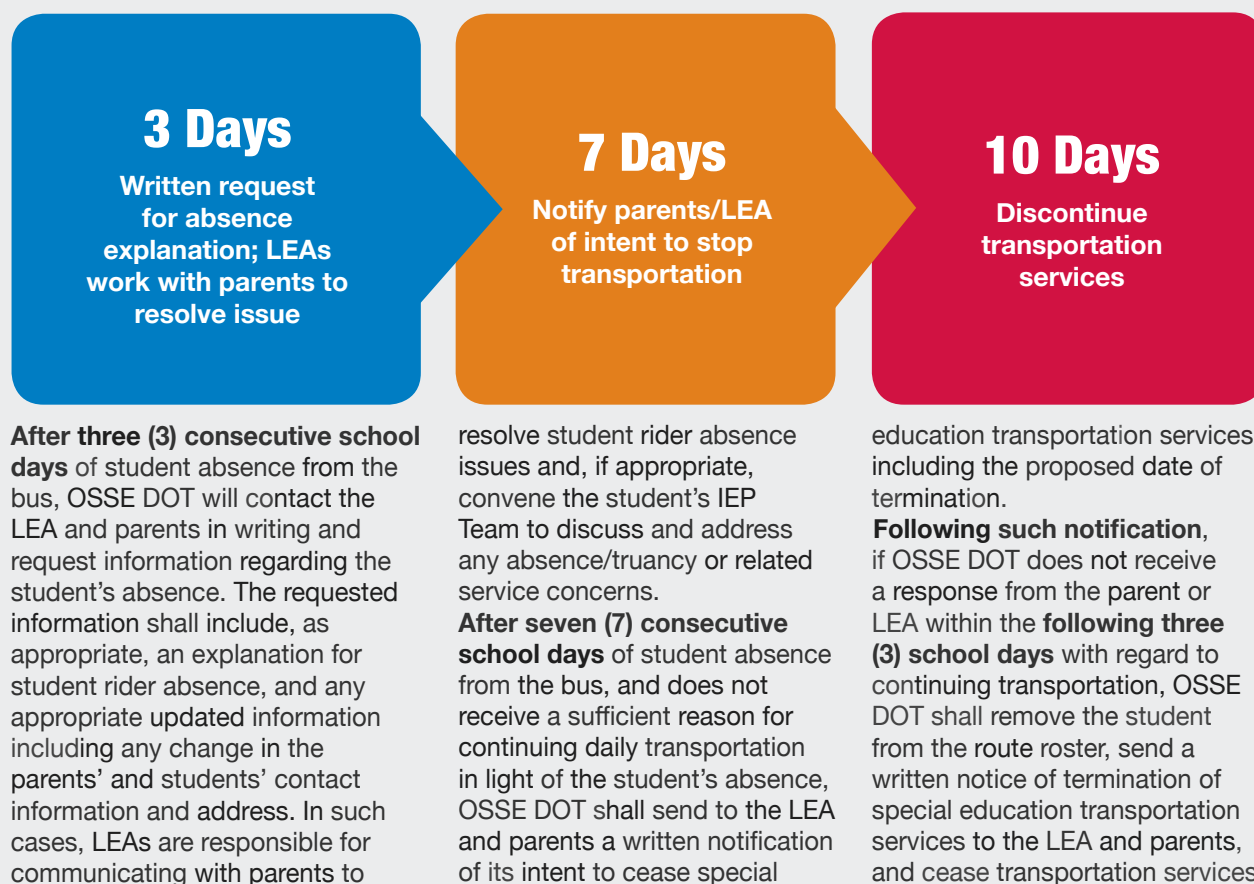
¹ 34 C.F.R. § 300.324(a)(2)

² 34 C.F.R. § 300.530; DOT personnel shall participate in manifestation determination meetings as appropriate.

APPROPRIATE DISCONTINUATION OF TRANSPORT

Health and Safety. OSSE DOT personnel will utilize lifts, ramps, or other mechanized equipment to assist students with wheelchairs. Drivers and attendants are not responsible for providing physical assistance to student passengers other than providing occasional non-intrusive assistance that does not require lifting or carrying the student. OSSE DOT retains the right to assess a student's condition to determine whether the student can be transported safely. OSSE DOT reserves the right to refuse to transport a student on the basis of health and/or safety concerns. In such cases, OSSE DOT shall provide same-day written notification to the parent and LEA with information regarding the basis of its refusal to transport. Upon notification, LEAs have the obligation to reconvene the student's IEP Team to discuss and address the health and/or safety concerns. LEAs will be responsible for providing alternative instructional options in the interim period before the IEP Team reconsiders the student's needs.

Chronic Student Absence from the Bus. To effectively provide special education transportation services, OSSE DOT relies upon student data from LEAs and reviews data regarding student rider attendance on the bus.



The LEA is responsible for uploading all notifications into SEDS and TOTE within five (5) business days. The LEA must assess the student's continued eligibility for special education transportation services by convening an IEP Team meeting or completing an IEP amendment to update the student's eligibility status, as appropriate. If the IEP Team determines that the student continues to be eligible for special education transportation services, the IEP Team must maintain and upload documentation related to the reason for the student's continued absence from the bus. If appropriate, a student's IEP Team may reestablish special education transportation services through the IEP process. The process to reestablish special education transportation services includes the same application of state-level eligibility criteria, documentation, and timelines as an initial request for transportation submitted by an LEA.

ADMINISTRATIVE INFORMATION



Assistive Devices. IEP Teams shall indicate any assistive device that the student will utilize during transport on the student's IEP. The term **assistive device** refers to personal equipment such as a wheelchair, walker, or helmet that the student utilizes throughout the school day. It is the responsibility of the parent to provide the student's wheelchair or other assistive devices that the student requires for personal use outside of school. This does not apply if the IEP Team determines that the student needs the assistive device to receive FAPE, and it does not eliminate the LEA's ultimate responsibility of providing assistive devices that are needed to provide FAPE.⁹ OSSE DOT is not responsible for providing assistive devices to students and will not transport students without assistive devices if such a device is specified in the IEP.



Pick-Up and Drop-Off Locations and Times. OSSE DOT will provide one round trip from each student's residence in the District of Columbia to the student's attending school per school day. The student's address provided to OSSE DOT shall match the address used to establish District of Columbia residency.¹⁰ OSSE DOT will not change a student's route to accommodate the student or parent for personal reasons (e.g. accommodations of non-FAPE related child care, one-time or sporadic changes in pick-up or drop-off locations for the student's or parent's convenience). Parents are responsible for making their own arrangements for days that the student needs pick-up and drop-off services from locations other than the address on record with OSSE DOT.



Adult to Adult Transfer. Students who are eligible for special education transportation services under the MFS or STS category and students twelve (12) years of age or younger who are eligible under the ASP category shall be accompanied by an adult at pick-up and drop-off times. If no adult is waiting at the residence identified for drop-off, the student will be transported to the **Child and Family Services Agency (CFSA)** at the end of the route.¹¹ OSSE DOT will attempt to contact the parent to notify him or her that the student can be picked up at the intake center. Students over the age of twelve (12) who are eligible for special education transportation services under the ASP category may be dropped off at the parent's residence without an adult present if the parent submits written permission in advance to OSSE DOT. LEAs must ensure that the appropriate parental consent form is completed and uploaded in TOTE.



Inclement Weather. OSSE DOT will not pick up or drop off students on official school snow days announced by the District of Columbia. When OSSE DOT cannot transport due to poor or unsafe weather conditions, LEAs remain responsible for making up, as appropriate, missed instruction for special education students just as they are responsible for doing so for general education students.



Transportation Outside of the Daily School Route. In addition to the daily school route, OSSE DOT provides transportation for eligible students to activities that are necessary for the provision of FAPE as specified in the student's IEP (e.g. secondary transition activities, education-related activities). To initiate transportation to such activities, LEAs shall submit the appropriate completed special accommodations request within five (5) business days of the IEP Team decision and at least ten (10) business days in advance of the activity. If the activity occurs after school hours, LEAs are responsible for making arrangements for transportation from the activity to the student's residence, subject to reimbursement from OSSE DOT. Just as LEAs are responsible for transporting general education students to field trips, LEAs are also responsible for transporting students with disabilities to field trips, unless the student is eligible for special education transportation under the MFS category and needs specialized equipment/vehicle. LEAs are responsible for providing accommodations, as appropriate, to students with disabilities in order to enable them to be transported with their nondisabled peers (e.g. behavioral assistance for students with significant behavior problems).

⁹See *Letter to Stohrer*, 213 IDELR 209 (OSEP 1989). The LEA may access the student's public or private insurance for the purpose of procuring or seeking reimbursement for procuring assistive devices. See 34 C.F.R. § 300.154(d) & (e).

¹⁰Exceptions and accommodations will be made on case-by-case basis to account for students who are in foster care or living in group homes.

¹¹The intake center is identified in the *OSSE DOT Parent Handbook*. After 6:00 p.m., students are released to *CFSA*.

LEA DOCUMENTATION AND SUBMISSION OF APPROPRIATE FORMS TO OSSE DOT

LEAs shall complete and upload all documentation associated with special education transportation services to **SEDS** and **TOTE** within five (5) business days of the eligibility determination. The LEA shall document in SEDS its reasonable efforts to obtain completed documentation from parents. Reasonable efforts are defined as a minimum of three (3) contact attempts using at least two (2) different modalities (e.g. phone, mailed correspondence, and in-person visits) on three (3) different dates by the LEA.¹² IEPs with incomplete documentation in SEDS may be considered noncompliant for monitoring and auditing purposes.

OSSE DOT will not begin to route a student or initiate transport until all of the required documentation is uploaded in SEDS and TOTE.¹³ All data and supporting documentation must be completed and accurately submitted at least seven (7) business days before the first day of school in order for transportation services to begin on the first day of school. Submissions with less notice than seven (7) business days before the first day of school will be processed on a rolling basis starting on the third day of the school year. LEAs will receive a final roster sheet five (5) business days before the start of school that will list all of the students who will receive special education transportation services starting on the first day of school. LEAs are responsible for contacting the parents of those students for whom transportation services will start after the first day of school to inform the parent of the expected start date.

LEAs are responsible for any delays and expenses that result from failure to submit the necessary data and supporting documentation in a complete and timely manner. OSSE DOT is responsible for ensuring that transportation services are implemented no later than three (3) business days after receiving a complete submission from the LEA initiating transportation or changing the student's school of attendance. After processing the initial transportation request, OSSE DOT will implement any subsequent changes made to the pick-up or drop-off address within ten (10) business days. LEAs shall communicate any subsequent changes in student eligibility status to OSSE DOT by submitting the appropriate documentation in SEDS and TOTE within five (5) business days of the eligibility determination.

¹²34 C.F.R. § 300.322(d)

¹³LEAs are required to submit a completed administrative transportation form with completed documentation for every student determined eligible for special education transportation services. This documentation submission requirement is separate and apart from the bi-annual certification process required that enables OSSE DOT to route students for the purposes of providing transportation during the summer months to support extended school year (ESY) services and transportation for the start of the school year.

Documentation Highlights

LEAs have

5 Business Days

from eligibility determination to upload documents to SEDS and TOTE

All documentation must be submitted at least

7 Business Days

before the first day of school in order for transportation services to begin on the first day of school

LEAs will receive a roster sheet

5 Business Days

before the start of school

OSSE DOT has

10 Business Days

to implement any changes made to pick-up or drop-off addresses after an initial request

Parent Reimbursement

OSSE DOT will reimburse parents for mileage¹ for transportation provided by parents that results from untimely OSSE DOT implementation after the three (3) or ten (10) business day processing period, as applicable. OSSE DOT may reimburse expenses incurred by parents who opt to transport the student in the family vehicle, so long as the parent has obtained formal approval in advance from OSSE DOT to transport the student under a reimbursement agreement.²

¹ Mileage rates set by the U.S. General Services Administration (GSA).

²Bus transportation may not be the most appropriate means of transporting a student. OSSE DOT offers reimbursable transportation methods such as Metro or direct reimbursement to parents who transport their children to school.

Bi-Annual LEA Certification of Eligibility

LEAs are responsible for certifying¹⁴ special education transportation services for students to OSSE DOT twice a year. LEAs shall provide certification to OSSE DOT of all students eligible to receive special education transportation services for **extended school year (ESY) services**,¹⁵ including those students attending nonpublic schools and programs, no later than the first Monday of May every year. LEAs shall provide certification to OSSE DOT of all students eligible to receive special education transportation services for the upcoming school year, including those students attending nonpublic schools and programs,¹⁶ no later than the first Monday of June of the current school year.

Certification is an LEA-level responsibility; nonpublic schools may not submit certification on behalf of LEAs. OSSE DOT will not transport students who do not have completed documentation in SEDS and TOTE (*i.e.* current eligibility determination and supporting documents). LEAs are responsible for the costs of transporting students for whom they have failed to properly or timely certify (*i.e.* students who have completed documentation in SEDS and TOTE).¹⁷ An LEA that fails to properly or timely certify shall continue to be responsible for transportation costs until the LEA completes certification.



Transportation Eligibility Certification Deadlines

LEAs shall provide certification* to OSSE DOT of all students (including nonpublic schools and programs) eligible to receive special education transportation services by the following dates:

Extended School Year (ESY)
FIRST MONDAY OF MAY
EVERY YEAR

Upcoming School Year
FIRST MONDAY OF JUNE
OF THE CURRENT SCHOOL YEAR

*Certification includes formal confirmation of school calendars and bell times for all schools attended by students receiving special education transportation services, including nonpublic schools and programs, on a yearly basis.



Additional Guidance

This memorandum supersedes all previous policy, memoranda, and/or guidance promulgated by the state educational agency (SEA) on this topic. Please direct any questions regarding the content of this document to Grace Chien, director of policy, at 202-741-5089 or by email at Grace.Chien@dc.gov.

¹⁴The term “certification” refers to the requirement that LEAs provide adequate and timely notice to OSSE of services that result in state-level expenditures. The term “certification” does not imply that LEAs have unilateral decision-making discretion over IEP Team decisions.

¹⁵OSSE DOT will transport to an extended school year (ESY) services program or to and from off-site programs that are necessary for the provision of FAPE as specified in the student’s IEP. OSSE DOT does not provide transportation for summer school.

¹⁶The LEA at which the student is enrolled is responsible for participating in all eligibility determinations and service designations associated with special education transportation services made in IEP Team meetings initiated and convened by nonpublic school personnel. LEAs may participate in IEP Team meetings held at nonpublic schools in-person or through designee of the nonpublic school. Regardless of mode of participation, the LEA remains responsible for being actively involved in all IEP decisions. 34 C.F.R. § 300.325(b)(2)

¹⁷LEAs will not be responsible for the costs associated with eligibility determinations that occur after the certification date due to feasibility issues (*e.g.* students who transfer to the LEA after the certification date).

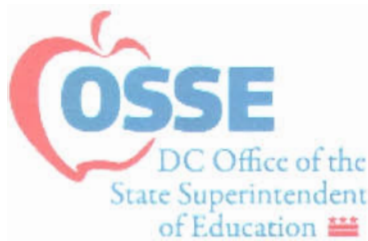


**Office of the State Superintendent of Education
Division of Student Transportation (OSSE-DOT)**

Government of the District of Columbia
810 1st Street, NE, 4th Floor, Washington, DC 20002

Phone: 202-576-6228 • TTY: 711 • Email: osse.dot@dc.gov


Policy last updated
November 6, 2013



January 5, 2010

(X) ACTION REQUIRED
() INFORMATIONAL

TO: Chancellor, District of Columbia Public Schools (DCPS)
Public Charter School Board
Public Charter School Directors
Principals, DCPS

FROM: Kerri L. Briggs, PhD 
State Superintendent of Education

RE: Policies and Procedures for Placement Review, Revised

CONTACTS: Amy Maisterra, Ed.D., Chief of Staff
Department of Special Education
Email: Amy.Maisterra@dc.gov
(202) 481-3757
OR
Grace Chien, Charter LEA Policy and Implementation Specialist
Department of Special Education
Email: Grace.Chien@dc.gov
(202) 741-5089

This Memorandum serves to clarify the expectation of the Office of the State Superintendent of Education (OSSE) regarding changes to a child's placement that result in a more restrictive environment as outlined in the Individuals with Disabilities Education Act (IDEA), Title 38 of the District of Columbia Official Code, and Title 5 of the District of Columbia Municipal Regulations (DCMR). OSSE, in its role as SEA, has the authority to implement this policy in the manner which best ensures beneficial student outcomes in compliance with IDEA LRE provisions. This Memorandum supersedes all previous policy, memoranda and/or guidance promulgated by the OSSE as the state education agency (SEA), and in particular, replaces the Policy and Procedures for Placement Review, Version 1.0 issued on October 1, 2008. This policy takes effect on January 2010.

Background

The IDEA mandates that to the maximum extent appropriate, all children with disabilities be educated with their non-disabled peers in the least restrictive environment (LRE).¹ LRE can be achieved through inclusive practices in which all children, including those with significant disabilities, have an equal opportunity to receive a high quality instruction in the general education classroom with the necessary supplementary aids and services.² A general education classroom is inappropriate only if the IEP team determines that the nature or severity of the child's disability is such that education in the general education classroom with the use of supplementary aids and services cannot be achieved satisfactorily.

To ensure LRE, Local Education Agencies (LEAs) must provide a continuum of alternative placements to meet the needs of all children with disabilities.³ The continuum is a range of placements, such as general education classes, special classes, special schools, home instruction, and instruction in hospitals and institutions, where an IEP can be implemented.⁴ LEAs should always consider placement in the general education classroom within the District of Columbia public school or public charter school before considering a more restrictive placement.⁵ Any alternative placement selected outside of the general education classroom must include appropriate opportunities for the child to interact with his/her non non-disabled peers.⁶

Responsibilities of LEAs

If an LEA anticipates that it may be unable to meet its obligation to provide a full continuum of placements in the LRE, it must notify the OSSE, Department of Special Education ("OSSE DSE") prior to the IEP meeting which is scheduled to consider placement into a more restrictive environment. The OSSE DSE, in its advisory role to the IEP team, may provide technical assistance to support efforts related to LRE objectives.

Initiating the Placement Request Process

Prior to the IEP team meeting to discuss a possible Change in Placement (CIP), the LEA must document the need for a more restrictive environment in the Special Education Data System (SEDS). This documentation must include specific strategies that the LEA implemented and the supports and services utilized to ensure that the child had the opportunity to experience success in the classroom. Additionally, the LEA must submit a completed Justification for Removal Statement (JRS) with the following information:

¹ 34 C.F.R. §300.114

² See OSSE Memorandum No. 09-004 Least Restrictive Environment and Inclusion Policy

³ 34 C.F.R. §300.115(a)

⁴ 34 C.F.R. §300.115(b)

⁵ D.C. Code § 38-2561.02

⁶ 34 C.F.R. §300.114(a)(2)(i); OSSE Memorandum No. 09-004 Least Restrictive Environment and Inclusion Policy

- 1) A description of the child's special education and related service needs;
- 2) A description of the services that have been considered by the team and implemented as strategies for success in the general education classroom or LRE;
- 3) A description of any specific placements and/or locations under consideration or requested by the parents and/or the LEA; and
- 4) A description of provisional plans for reintegration back into a less restrictive learning environment.

LEAs must submit a completed JRS to the OSSE-DSE by email (preferred), fax, or postal mail to:

Office of the State Superintendent of Education
Department of Special Education, Placement Oversight Unit
Attn: Yuliana Del Arroyo
51 N Street NE, 7th Floor
Washington, DC 20002
(202) 741-0478 (Office)
(202) 741-0229 (Fax)
Yuliana.Delarroyo@dc.gov

An LEA that opts to send materials by fax or postal mail should keep confirmation of fax or delivery for their records. Incomplete requests may cause a delay in processing. Upon receipt of the JRS, a placement reviewer will be assigned to oversee the case within one (1) business day.

At minimum, the OSSE DSE requires 30 days notice between the time of JRS receipt and the IEP team meeting date to conduct a comprehensive review of the case in order to become well-informed of the issues, barriers to service, and placement options involved in each case.⁷ The IEP team may request an expedited review (i.e., that the IEP team meeting occur within less

than the 30 day notice period). The IEP team must include a detailed written rationale for the request. OSSE DSE may grant the request upon a showing of good cause by the IEP team as determined by OSSE DSE.

Placement: Review

Once OSSE DSE has confirmed receipt of the JRS, the LEA must submit copies upon request, of the child's current and past IEPs, all recent evaluations, report cards, documentation of

⁷ A public charter school that has elected DCPS as its LEA for special education purposes ("District Charter") should follow guidelines set by the DCPS Office of Special Education. For more information, please visit <http://www.k12.dc.us/offices/ose/index.htm> or call (202) 442-4800.

behavioral incidents and/or related disciplinary actions, and any other relevant information that informs a determination regarding the child's level of need.

During the placement review process, the OSSE DSE may elect to visit a school site and speak with family members or staff familiar with the child. A representative from the OSSE DSE may attend the CIP meeting by phone or in person to provide constructive input to the IEP team and to ensure that the LEA has exhausted its efforts in serving the child onsite. The OSSE DSE placement review specialist will provide a recommendation regarding placement, indicating whether the placement into a more restrictive environment is "warranted" or "not warranted."⁸ A recommendation of "not warranted" does not negate the IEP team's placement decision nor prevent the child from being placed.

The IEP team, and not the OSSE DSE placement review specialist, will determine whether the needs of the child can be met in the current LRE with additional supports, or if the child's needs require a more restrictive placement. In this context, the term *placement* refers to the learning environment classified by level of restrictiveness (e.g. general education classroom, special education/resource classroom, or private facility).

Following an IEP team's decision to place a child into a more restrictive environment, OSSE DSE will make a decision regarding location assignment. In this context, the term *location* refers to the actual school site or facility at which the child will receive his/her instruction. The OSSE DSE will assign a location based on the following order:

- 1) DCPS schools, or District of Columbia public charter schools pursuant to an agreement between DCPS and the public charter school;
- 2) Private or residential District of Columbia facilities; and
- 3) Facilities outside of the District of Columbia.⁹

The OSSE DSE will issue a Notice of Location Assignment within ten (10) business days after the IEP team makes its placement decision. The OSSE DSE will mail a copy of this Notice to the child's parents, parents' representative, receiving school and nonpublic billing unit (if the child is attending a nonpublic school). The LEA will issue the Prior Written Notice as required by the IDEA.¹⁰

⁸ If for any reason the placement review specialist does not attend the change in placement meeting, the IEP team must provide the meeting date and a copy of the relevant documentation to him or her in as timely a manner as possible.

⁹ D.C. Code § 38-2561.02

¹⁰ 34 C.F.R. § 300.503

Transportation

IDEA defines transportation as: (a) travel to and from school and between schools, (b) travel in and around school buildings, and (c) specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability.¹¹ Not all children with disabilities are eligible to receive transportation as a related service. Transportation is a related service when it is needed in order for the child to benefit from special education. If transportation to and from school for the general student population is provided, then transportation must be provided for a child with a disability in order to not discriminate against the child with a disability. If transportation is not provided for the general student population, then the issue of transportation for children with disabilities must be decided on a case-by-case basis by the IEP team.¹²

If the IEP team determines that the child needs transportation to benefit from his or her special education, then a statement to that effect must be included in the IEP, along with any relevant details regarding the transportation. Additionally, if the IEP team determines that the parent will provide transportation; this should also be indicated on the IEP in a manner which includes any necessary arrangements to ensure that it is at no cost to the parent if it is a related service.

Parental Rights

The parental right to dispute the location assignment is unaffected by this policy. The parent still holds the same legal rights that apply to every aspect of the special education process. Therefore, when a disagreement occurs, the parent can request mediation, file a state complaint, or file a due process complaint.¹³ For further information on the parents' rights please refer to the Procedural Safeguard Manual for parents.

Compliance and Monitoring

Please be advised the OSSE may conduct unannounced monitoring activities to ensure LEA compliance with federal and local law.

Additional Guidance

Please direct any questions regarding the content of this memorandum to Amy Maisterra, Ed.D., Chief of Staff, at (202) 481-3757 or by email at Amy.Maisterra@dc.gov, or Grace Chien, Charter LEA Policy and Implementation Specialist, at (202) 741-5098 or by email at Grace.Chien@dc.gov.

¹¹ 34 C.F.R. §300.34(c)(16)

¹² 34 C.F.R. §300.320(a)(4)

¹³ 34 C.F.R. §§ 300.506, 300.507

What is a nonpublic special education school or program?

A **nonpublic special education school or program** is a privately owned or operated school that maintains or conducts classes for the purposes of offering instruction to students with disabilities.

How long is it appropriate for a student to stay in a nonpublic school?

The IEP Team determines the length of time a student should remain in a learning environment that is more restrictive than the previous placement at the current school. Under IDEA, a student's placement must be reviewed at least annually, should be based on the student's IEP, and should be located as close as possible to the student's home. **Keeping a student in a more restrictive learning environment longer than necessary is a violation of federal law.**

What are the LEA responsibilities for students placed in a nonpublic school?

The LEA is responsible for providing a free appropriate public education (FAPE) before, during, and after placement in a nonpublic school, unless you, the parent, enroll the student in another LEA. The new LEA then becomes responsible for providing FAPE to the student. When the student is placed in a nonpublic school, the IEP Team is responsible for regularly monitoring the student's progress through the IEP process. If the nonpublic school conducts the IEP Team meetings, the LEA must make sure that you and an LEA representative are involved in any decision about the student's IEP. The IEP Team should develop a plan for the student to transition back into a less restrictive environment, when the IEP Team determines that it is appropriate.

When the IEP Team believes a student is ready to return to the LEA, the LEA and nonpublic IEP Team members should convene to revise the IEP, review the transition plan to ensure its appropriateness, and initiate the return based on the timeframes determined by the IEP Team.

What are my responsibilities, as a parent, if my child is placed in a nonpublic school?

As a member of your child's IEP Team, your responsibilities remain the same, in that you will need to make sure that you are participating in all parts of the special education process. Additionally, when your child is placed in a nonpublic school, it is your responsibility to make sure that **your child is enrolled in a District of Columbia LEA every school year.** If your child is placed by a charter LEA that for some reason closes, you will need to enroll your child in another LEA. This also applies if your child ages out of the charter school that he/she attends.

For more information, please contact:

Office of the State Superintendent of Education
Division of Special Education
810 First Street, NE 5th Floor
Washington, DC 20002
Phone: (202) 727-6436/ Fax: (202) 299-2135

OSSE grants qualified individuals with equal access to OSSE programs and services. OSSE will provide alternative formats for brochures, meeting/hearing minutes, pamphlets, and newsletters, as well as sign language interpreter services. In order to receive sign language interpreter services, a qualified individual must submit his or her request to the OSSE ADA Coordinator at least 5 business days prior to receiving an OSSE service or attending an OSSE event. The OSSE ADA Coordinator is Ms. Jocelyn Johnson. She can be reached at (202) 724-2134 or jocelyn.johnson@dc.gov.



Office of the
State Superintendent of Education

Policies and Procedures for Placement Review, Revised

Parent Brochure

PREAMBLE: On January 5, 2010, the Office of the State Superintendent of Education, Division of Special Education, (OSSE DSE) issued the "Policy and Procedures for Placement Review (PPPR), Revised." The policy clarifies the roles and responsibilities of every local education agency (LEA) that is considering a change in placement for a child with a disability to a more restrictive environment outside the LEA. The purpose of this Parent Brochure is to provide additional information to parents regarding the placement review process and the role of a parent in this process.

Note: OSSE is required to comply with all federal and District of Columbia rules and regulations in order to fulfill its obligations as the State Education Agency. As such, OSSE will take appropriate actions related to any issues identified during the placement process which require follow-up.

Placement in the Least Restrictive Environment (LRE)

What is an IEP?

An **IEP**, or Individualized Education Program, is a plan that is developed in collaboration with you (the parent), general educators, special educators, school administrators, the child when appropriate, and other key individuals at your child's school, to guide your child's academic progress and support his/her success at school. This group is known as the IEP Team.

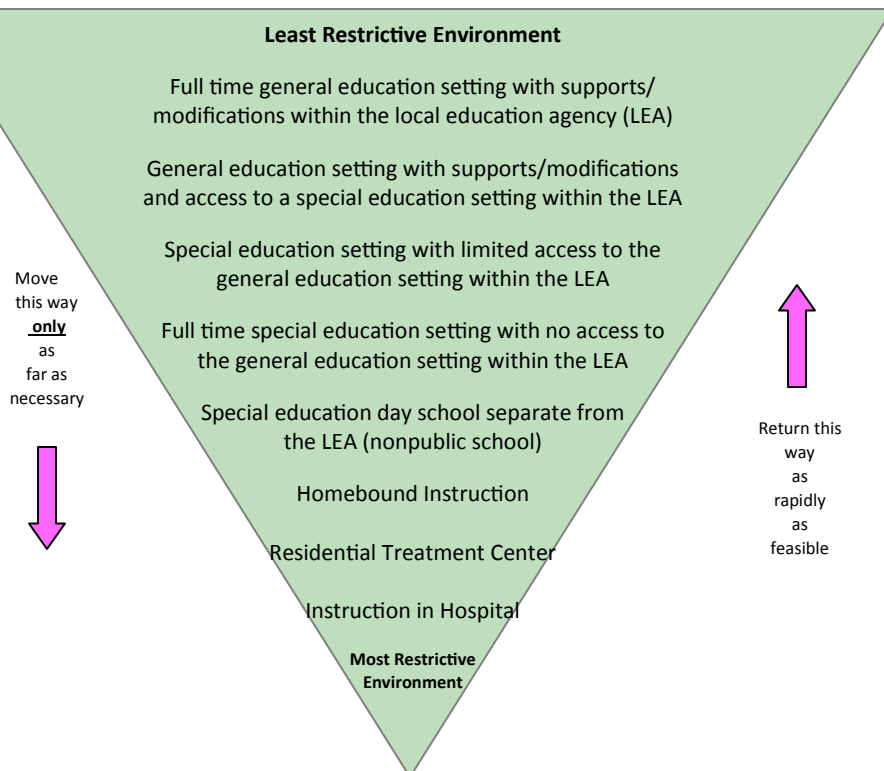
What is Placement?

Placement, as it relates to special education, is the level of services and the type of environment that the Team believes is necessary for your child to succeed. Placement, in this context, **does not** refer to location (the actual school site or facility at which the child will receive his/her instruction).

What is the Least Restrictive Environment (LRE)?

As required by the federal law (Individuals with Disabilities Education Act, or IDEA), every public agency must ensure that, to the maximum extent appropriate, children with disabilities are educated with children who are non-disabled. Special schooling, special classes, or other removal of children with disabilities from the general education environment should occur **only** if the nature or severity of the disability is such that education in regular classes, with the use of supplementary aids and services, cannot be achieved satisfactorily. In all cases, the IEP Team is responsible for determining the environment best suited for the student. The following is the continuum of alternative placements that exists:

Least Restrictive Environment Continuum



Placement Decision

When making the placement decision, the Team should...

- Determine the educational needs of the student through the IEP planning process.
- After agreeing and documenting the needs of the student on the IEP, review the placement options on the LRE Continuum (see diagram on left) in sequence from least restrictive to most restrictive environment.
- Consider and discuss the following three factors during the decision-making process:
 1. Through information obtained from data (e.g. assessments, progress reports, observations, etc.), consider whether the student can be served in the general education setting with one or more of the following: (**Note:** The following list is not exhaustive)
 - Program and/or curriculum accommodations or modifications
 - Collaboration between special education and general education teachers
 - Supplementary aids and supports
 - Use of assistive technology
 - Development and implementation of a behavior intervention plan through a functional behavior assessment
 2. Compare the benefits provided in the LRE to those provided in a more restrictive environment. (**Remember:** Placement in the general education setting is not dependent on the student's ability to learn the same things in the same way.)
 3. Consider the potentially beneficial or harmful effects of each placement option, to include logistical changes, such as transportation to and from home to new school (i.e. distance and ride time).
- If the Team agrees that the student should receive services outside of the LEA, the IEP Team should develop a plan for the student to transition back into a less restrictive environment, when the IEP Team determines that it is appropriate.

Why are parents important in the placement process?

- Research shows that a student's success is directly linked to parental involvement. Parents set expectations for children, and can motivate them by supporting their education at school and at home.
- Parents know their children best and can bring important information to the planning process. Your knowledge of your child can help the IEP team create an IEP that will work for your child in the right environment.
- Collaboration between parents and educators throughout the IEP planning process will result in the most appropriate educational decision for each student.
- In addition to all of the above facts, federal law requires that parents have the opportunity to participate.

So what should I do as a parent?

- **Stay involved!** You should participate in all parts of the special education process, including attending meetings and participating in the decision making process related to your child's education. Your participation is vital to your child's educational success.

NON-REGULATORY GUIDANCE TO THE POLICIES AND PROCEDURES FOR PLACEMENT REVIEW, REVISED

The Office of the State Superintendent of Education, Department of Special Education (OSSE DSE) issued the "POLICIES AND PROCEDURES FOR PLACEMENT REVIEW, REVISED (PPPR)" on January 5, 2010.¹ The policy clarifies the roles and responsibilities of every Local Education Agency (LEA) when considering a change in placement to a more restrictive learning environment outside the LEA. The purpose of this guidance document is to provide additional clarification to assist LEAs in implementing the policy in a manner consistent with the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§1400 et seq.

Frequently Asked Questions (FAQ)

1. What is a change in placement (CIP)?

A CIP is a determination made by an Individualized Education Program (IEP) team regarding the appropriateness of a student's learning environment. All determinations related to placement must comply with the federal mandate that all states provide a Free Appropriate Public Education (FAPE) in the Least Restrictive Environment (LRE) to all students with disabilities.² For the purposes of the policy, CIP requests should be submitted to the OSSE DSE only when an IEP team is considering placement to a more restrictive learning environment outside the LEA such as a nonpublic placement.³

2. What is a nonpublic placement?

A nonpublic placement is a privately owned or operated school or program that offers instruction to students with disabilities. The term nonpublic placement does not include a privately owned or operated school or program whose primary purpose is to provide educational services to students without disabilities, even though the school or program may serve students with disabilities in a regular or general academic setting.⁴

3. What is the purpose of a Justification for Removal Statement (JRS)?⁵

The purpose of a JRS is for the LEA to present the OSSE DSE with evidence of a robust decision making process related to the determination that a more restrictive learning environment in a nonpublic placement is necessary for a student's educational success. All of the information required by the PPPR should be presented in a thoughtful concise manner, including strategies that the IEP team will utilize to support (*Continued on Page 2*)

¹ The first version of the policy was effective as of October 1, 2008.

² For more information regarding the provision of FAPE in the LRE, please reference the Least Restrictive Environment and Inclusion Policy, Memorandum No. 09-004.

³ The OSSE, in its role as the SEA, has the authority to implement the policy in the manner which best ensures beneficial student outcomes in compliance with the IDEA's LRE provisions. Each school should follow guidelines set by its LEA. A public charter school that has elected the District of Columbia Public Schools (DCPS) as its LEA for special education purposes (District Charter) should follow guidelines set by DCPS.

⁴ D.C. Code §38-2561.01

⁵ A JRS must include 1) a description of the student's special education and related service needs; 2) a description of the services that have been considered by the team and implemented as strategies for success in the general education classroom or LRE; 3) a description of any specific placements and/or locations under consideration or requested by the parents and/or the LEA; and 4) a description of provisional plans for reintegration back into a less restrictive learning environment.

(Continued from Page 1) reintegration back into a less restrictive learning environment in a timely and appropriate manner.

4. Are LEAs required to complete all components of the JRS before the OSSE DSE will begin to process the CIP request?

Yes. It is imperative that all sections of the JRS be answered completely. Incompleteness will cause a delay in processing. The placement review specialist assigned to the request will inform the LEA if any part of the JRS needs to be resubmitted for a more sufficient response and/or clarification. LEAs that need assistance completing or understanding a specific component of the JRS before submission may contact the OSSE DSE at (202) 741-0478.

5. What is the timeline between the submission of a JRS and the CIP meeting?

To ensure that the OSSE DSE has adequate time to review all relevant information, the policy requires a minimum of thirty (30) calendar days between the submission of a JRS and the occurrence of the CIP meeting. During this period of review, the OSSE DSE may conduct, when necessary, extensive document review, informal meetings with family and stakeholders, and classroom observations of the student.⁶

6. What is the procedure for requesting a CIP if a parent, rather than the LEA, initiates the request?

The policy was written to articulate the procedure that LEAs must follow to initiate a CIP request. However, the procedure for requesting a CIP remains the same regardless of whether the LEA or a parent initiates the request. When an LEA receives a request from a parent, it should proceed with the submission of a JRS that clearly outlines the parent's concerns and the steps the LEA has taken to attempt to address those concerns, and any parent recommendations regarding potential placement locations. The OSSE DSE will respond in the same manner and adhere to the same timeline regardless of whether the request originates from an LEA or a parent.

7. Why would the OSSE DSE meet with the school, family, and other stakeholders?

The OSSE DSE may decide to meet informally with the school, family, and other stakeholders prior to the CIP meeting in order to gain a well informed perspective of the student's needs. Input from key decision makers in the student's life often leads to targeted suggestions regarding additional instructional strategies and/or related service provision that may meet with success, recommendations for technical assistance, and the determination of the appropriate educational environment. The OSSE DSE will utilize this information to support and advise the IEP team's placement decision.

⁶ A situation may arise in which an LEA requests expedited processing. The OSSE DSE will consider the appropriateness of such a request and proceed as necessary on a case-by-case basis.

8. When does the OSSE DSE issue a state recommendation on whether a CIP is warranted?

Typically, the state recommendation is provided at the CIP meeting, after the IEP team has had the opportunity to discuss any outstanding issues regarding the student's case and before the IEP team makes its placement decision. The state recommendation will indicate whether the requested CIP, from the State's review of the case, is "warranted" or "not warranted." This collaborative process allows the IEP team to consider the recommendation as one of many factors informing its placement decision.

9. What happens after the OSSE DSE issues a location assignment?

Once the OSSE DSE issues the location assignment letter, the LEA must issue a Prior Written Notice (PWN) to all parties. After the PWN has been issued, the receiving school may begin serving the student immediately, unless there are alternate arrangements made between both schools.

10. What happens if an IEP team disagrees with a state recommendation?

The OSSE DSE's role in the placement process is advisory in nature; a state recommendation of whether a CIP is warranted does not override an IEP team's subsequent decision regarding placement.

11. What happens if a parent disagrees with an OSSE DSE's location assignment?

The policy does not affect a parent's right to dispute the location assignment. The parent still holds the same legal rights that apply to every aspect of the special education process. Therefore, if a disagreement occurs, the parent can request mediation, file a state complaint, or file a due process complaint.⁷

12. How long should a student remain in a nonpublic placement?

The IEP team determines the length of time a student should remain in a learning environment that is more restrictive than the previous placement at the LEA. Under the IDEA, a student's placement must be reviewed at least annually, should be based on the student's IEP, and should be located as close as possible to the student's home.⁸ The OSSE DSE expects LEAs to monitor student progress and adhere to the provisional plans for reintegration as outlined in the JRS and as modified during the LEA's continued monitoring of the student's progress in the nonpublic placement.⁹ Keeping a student in a more restrictive learning environment longer than necessary is a violation of the IDEA requirements related to the provision of LRE and FAPE.¹⁰

⁷ 34 C.F.R. §§300.506, 300.507

⁸ 34 C.F.R. §300.116(b)

⁹ 5 D.C.M.R. §3019.9

¹⁰ 34 C.F.R. §§300.101, 300.114

13. What are an LEA's responsibilities when a student is placed in a nonpublic facility?

The LEA is responsible for providing FAPE to the student before, during, and after placement in a nonpublic school, unless the parent enrolls the student in another LEA.¹¹ When the IEP team decides to move forward with a CIP, it must formally develop a transition plan that will assist the student in adjusting and succeeding in the new educational setting. Additionally, the IEP team is responsible for regularly monitoring the student's progress as required by the IDEA, through the IEP process, in order to formally develop, revise as appropriate, and implement a reintegration plan that ensures the student's timely return to the LEA. It is also the responsibility of the LEA to take the appropriate steps to allow nonpublic staff access to the student's file in the Special Education Data System (SEDS); see Question 14 for more information on changes in SEDS.

14. What are the steps an LEA should take in regards to SEDS or "EasyIEP" for a student placed in a nonpublic facility?

Once OSSE DSE has issued a location assignment and the LEA has issued a PWN to all relevant parties, the LEA should take the following steps to allow nonpublic staff access to the student's record in SEDS:

A. An LEA representative must notify the SEDS team of the new placement by submitting an e-mail to Lori.Ludwick@dc.gov AND Tara.Beaner@dc.gov, with the following information:

- i. Student Name;
- ii. Student Identification Number;
- iii. Effective date of placement;
- iv. Copy of the location assignment and acceptance letter (the LEA must also fax these documents into SEDS using the standard "Miscellaneous Cover Sheet" form);
- v. Nonpublic school name and contact information (i.e. name, email, and title of a contact at the nonpublic school who will access the student's records); and
- vi. Type of access to provide to nonpublic staff (edit or view only rights).¹²

NOTE: The LEA should not withdraw the student from OLAMS or STARS, as the student remains enrolled in the LEA.

B. Upon receipt of the LEA e-mail notification of the nonpublic placement, a SEDS representative will email the nonpublic school contact to obtain a list of the staff members who will need access to the student's SEDS record. The nonpublic facility will be asked to provide relevant staff information (i.e. names, titles, and email addresses).

C. Within one (1) business day of receiving the information from the nonpublic facility, the SEDS representative will provide appropriate access to the student record in SEDS to each nonpublic staff member identified and send a confirmation email to both the LEA and nonpublic contacts of the changes.

¹¹ 5 D.C.M.R. §3019.9

¹² An approved nonpublic special education school shall be provided access to SEDS as determined appropriate by the sending LEA, and shall cooperate with the LEA to maintain each enrolled student's IEP in that data system.

- 15. What are an LEA's responsibilities when a student is ready to return to the LEA?**
Procedurally, when the IEP team believes a student is ready to return to the LEA, the LEA and nonpublic IEP team members should convene, as they must revise the IEP, review the transition plan to ensure its appropriateness, issue a PWN and initiate the return based on timeframes determined by the IEP team. The LEA should contact the SEDS team with the effective date of the placement change and request the removal of the nonpublic's staff access to the student's records.
- 16. Who is eligible for transportation services to and from the nonpublic placement?**
Eligibility for transportation services is different from eligibility for special education services. Students who qualify for special education services do not automatically qualify for transportation services. It is the IEP team's responsibility to determine if transportation, as a related service, is necessary in order for the student to receive FAPE and benefit from special education. Distance alone is not a sufficient rationale for including transportation on the IEP.¹³ If the IEP team decides transportation is a necessary related service, a statement to that effect must be included, along with the agreed upon transportation plan, in the student's IEP. Please see OSSE DSE's Related Services Policy issued January 5, 2010¹⁴ for additional guidance.

Additional Guidance

For additional information, please reference the "POLICIES AND PROCEDURES FOR PLACEMENT REVIEW, REVISED" located on the OSSE website at <http://www.osse.dc.gov>. Please direct any questions regarding the content of this document to **Grace Chien, LEA Charter Policy and Implementation Specialist**, at (202) 741-5098 or by email at Grace.Chien@dc.gov.

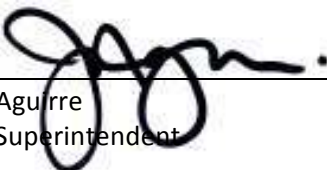
¹³ Nonpublic placements should be located as close as possible to the student's home. 34 C.F.R. §300.116(b)(3)

¹⁴ <http://www.osse.dc.gov/seocwp/view,a,1222,q,561151.asp>



Individualized Education Program (IEP) Implementation for Transfer Students Policy

The purpose of the attached policy memorandum is to establish state-level procedures and timelines for the development and implementation of Individualized Education Programs (IEPs) for students transferring into local educational agencies (LEAs) in the District of Columbia. In order to successfully effectuate IEPs in a manner that most appropriately meets the individualized needs of students who transfer, LEAs shall facilitate the timely transfer of records, provide comparable services, and complete evaluations when necessary to determine eligibility under Part B of the Individuals with Disabilities Education Act (IDEA). It is the expectation of the Office of the State Superintendent of Education (OSSE) that all LEAs adhere to this policy to ensure that a free appropriate public education (FAPE) is made available to all eligible children with disabilities.


Jesús Aguirre
State Superintendent

December 17, 2014

Date



DECEMBER 17, 2014

**(X) ACTION REQUIRED
() INFORMATIONAL**

TO: Local Educational Agencies
Public Agencies (providing educational services to children with disabilities)

CC: Public Charter School Board
Deputy Mayor of Education

FROM: Jesús Aguirre, State Superintendent of Education

RE: Individualized Education Program (IEP) Implementation for Transfer Students Policy

CONTACT: Grace Chien, Director of Policy
Division of Specialized Education
Grace.Chien@dc.gov
(202) 741-5089

INTRODUCTION

The purpose of this Memorandum is to establish state-level procedures and timelines for the development and implementation of Individualized Education Programs (IEPs) for students transferring into local educational agencies (LEAs) in the District of Columbia. In order to successfully effectuate IEPs in a manner that most appropriately meets the individualized needs of students who transfer, LEAs shall facilitate the timely transfer of records, provide comparable services, and complete evaluations when necessary to determine eligibility under Part B of the Individuals with Disabilities Education Act (IDEA). It is the expectation of the Office of the State Superintendent of Education (OSSE) that all LEAs adhere to this policy to ensure that a free appropriate public education (FAPE) is made available to all eligible children with disabilities.

MONITORING AND COMPLIANCE

The U.S. Department of Education's Office of Special Education Programs (OSEP) requires that every state education agency (SEA) monitor local educational agencies (LEAs) to ensure compliance with Part B of the Individuals with Disabilities Education Act (IDEA). A finding of LEA noncompliance by the Office of the State Superintendent of Education (OSSE) will result in corrective actions for each area of noncompliance and may result in the requirement to submit an improvement plan. OSSE may also recommend or require training and technical assistance for LEA staff when crafting corrective actions. All items of noncompliance shall, by federal law, be corrected within one year of the finding; sustained noncompliance by an LEA may result in sanctions that include potential withholding of Part B grant funding.¹ Consistent with the IDEA and its regulatory framework, all LEAs shall comply with monitoring requirements established annually by OSSE, which include the collection and submission of both quantitative and qualitative data that support monitoring for regulatory compliance and programmatic quality. Additionally, a subset of LEAs will be

¹ 34 CFR §300.600(a)(3)



selected for OSSE's annual monitoring process. OSSE, in its role as SEA, ensures FAPE by meeting with other public agencies providing education services to children with disabilities to review and discuss the delivery of special education services. If any noncompliance is identified during OSSE's review, the public agency will be asked to take corrective action, as appropriate.

A District Charter LEA is a public charter school that has elected the District of Columbia Public Schools (DCPS) as the LEA for special education purposes.² Student transfers between DCPS and District Charter LEAs and student transfers between two District Charter LEAs are considered within-LEA transfers for the purposes of compliance with Part B of the IDEA. DCPS, as the LEA, is responsible for ensuring that District Charter LEAs comply with the requirements in this Policy. DCPS and all independent charter schools are considered separate LEAs, and must adhere to all the requirements in this Policy.

LEA RESPONSIBILITY TO REQUEST OR PROVIDE STUDENT RECORDS

Once a student has enrolled in a new LEA in the District of Columbia, the new LEA shall request the student's records from the previous LEA within five (5) business days of enrollment, including any existing IEP, supporting evaluation documents, and any other records pertaining to the provision of special education or related services to the student.³ As part of its reasonable efforts to obtain records from the previous LEA, the new LEA shall specifically ask the parents and the previous LEA whether the student has been referred previously as a potential "child with a disability" and request such records documenting any prior written referral.⁴ LEAs located in the District of Columbia shall respond to a request for student records of a previously enrolled student by providing such records within ten (10) business days of the receipt of the request,⁵ even if the provision of such records necessitates the physical transfer of paper records. In the context of out-of-state transfers, the new LEA shall upload a transfer student's existing IEP into SEDS within ten (10) business days of receipt from the previous LEA.⁶ In the context of student transfer between LEAs, the new LEA and previous LEA are not required to seek consent from the parent or adult student for the transfer of records.

After exercising reasonable efforts to obtain the student's records, if the new LEA is unable to obtain the IEP from the previous LEA or from the parent, the new LEA is not required to provide special education and related services to the student, including comparable services.⁷ However, even if the parent is unable to provide the student's IEP from the previous LEA, if the new LEA decides that an evaluation is necessary because it has reason to suspect that the student has a disability (*e.g.* communication from the parent indicating a recent need for or receipt of special education services, etc.), it shall fulfill its Child Find obligation to evaluate the student in a timely manner to determine eligibility.⁸

² D.C. Official Code §38-1802.10(c)

³ 34 CFR §300.323(g)(1)

⁴ The term "reasonable efforts" refers to the requirement of an LEA to contact the respective party a minimum of three attempts using different modalities (*e.g.* phone, mailed correspondence, and in-person) on three different dates.

⁵ 5 DCMR §E-3019.5(a)

⁶ OSSE's LEA Data Management Policy (December 9, 2010)

⁷ Office of Special Education and Rehabilitative Services, Questions and Answers on Individualized Education Programs (IEPs), Evaluations, and Reevaluations, Q A-2 (Revised September 2011)

⁸ The term *Child Find* refers to a process of continuous public awareness activities, designed to locate, identify, and evaluate children who may require early intervention or special education services, that is required of LEAs under the Individuals with Disabilities Education Act (IDEA).



LEA RESPONSIBILITY TO COMPLETE PENDING EVALUATIONS

- A. Students Who Have Been Referred for Special Education Evaluation but Whose Initial Evaluation Has Not Begun.** If a student enrolls in a new LEA after the student has been previously identified as a potential “child with a disability,” the new LEA has affirmative Child Find obligations. The new LEA shall apply the date of written referral from the previous within-state LEA as the start date to the District of Columbia’s initial evaluation timeline. In the case of an out-of-state transfer, the date of documented parental consent given to the prior LEA shall be the start date of the District’s timeline. If there is no existing documentation of written referral or parental consent, the new LEA shall submit a written referral for Part B services on behalf of the student on the same date that it has knowledge of the existing referral (*e.g.* verbal referral from the previous LEA or verbal confirmation from parent). In this case, the new LEA shall exercise reasonable efforts in obtaining parental consent for initial evaluation. If the parent does not provide consent for the initial evaluation or fails to respond to a request to provide consent, the LEA may, but is not required to, pursue the initial evaluation of the student by utilizing the procedural safeguards provided by IDEA regulations, including mediation and due process procedures.⁹
- B. Students with Initiated but Incomplete Initial Evaluations.** If a student enrolls in a new LEA after the student’s previous LEA has begun the process of conducting an initial evaluation, both the previous LEA and new LEA shall coordinate efforts, as necessary and as expeditiously as possible, to ensure prompt completion of a full evaluation within the District of Columbia’s initial evaluation timeline.¹⁰ The new LEA shall request any relevant evaluation data and documentation within five (5) business days of the student’s enrollment. The previous LEA shall assist in completing the evaluation within the evaluation timeline by providing any relevant evaluation data and documentation within ten (10) business days of the receipt of the request. The new LEA shall apply the date of written referral received or documented by the previous within-state LEA as the start date to the District of Columbia’s initial evaluation timeline. In the case of an out-of-state transfer, the date of documented parental consent shall be the start date of the District’s timeline. If a new LEA that receives evaluation data from a previous LEA determines that such data or data procedures are inappropriate or inaccurate in nature, it may decide to reinstate the initial evaluation. The new LEA, however, must comply with the initial evaluation timeline as determined in this section.

LEA RESPONSIBILITY TO PROVIDE COMPARABLE SERVICES

If a student with an existing IEP transfers to an LEA in the District of Columbia within the same school year, the new LEA, in consultation with the parents, shall provide FAPE to the student in the form of comparable services.¹¹ *Comparable services* are services that are similar or equivalent to those described in the student’s IEP from the previous LEA.¹² For the purposes of this Policy, comparable services also include equitable services provided to parentally-placed students. (See page 5 for more information regarding

⁹ 34 CFR §300.300(a)(3)

¹⁰ Under the circumstance in which a student enrolls in an LEA after the commencement of an initial evaluation and prior to a determination of eligibility, the District of Columbia’s initial evaluation timeframe does not apply to the new LEA only if the new LEA is making sufficient progress to ensure a prompt completion of the evaluation and the parent and new LEA agree to a specific time when the evaluation will be completed. 34 CFR §300.301(d)(2) and (e)

¹¹ 34 CFR §300.323(e) and (f)

¹² 71 FR 46540, 46681 (Aug 14, 2006)



equitable services.) The new LEA shall document and track the delivery of comparable services in SEDS. The new LEA is required to implement comparable services as soon as possible, and no later than twenty (20) calendar days of receipt of the transfer IEP.

LEA RESPONSIBILITY TO DETERMINE THE APPROPRIATENESS OF AN EXISTING IEP, EVALUATE WHEN NECESSARY, AND IMPLEMENT AN ADOPTED/UPDATED OR NEWLY DEVELOPED IEP

- A. Students Who Transfer from One LEA to Another LEA within the District of Columbia with an Existing IEP.** Within thirty (30) calendar days of enrollment, the new LEA shall decide to either adopt the student's IEP from the previous LEA or develop a new IEP that meets the applicable requirements of the IEP process.¹³ A new LEA that determines that it is appropriate to develop a new IEP shall finalize the IEP within sixty (60) calendar days of enrollment.
- B. Students Who Transfer to the District of Columbia with an Existing IEP from Another State.** A new LEA that receives information regarding an out-of-state student's prior eligibility under IDEA or previous receipt of special education services shall treat the information as a referral and document the referral in writing in SEDS within two (2) business days of receipt. The new LEA shall adhere to the record transfer requirements in this Policy to request and obtain the student's records from the previous LEA. The LEA shall begin collecting student-level data immediately upon referral to conduct an evaluation in the case that it does not receive records from the previous LEA. After thirty (30) calendar days from referral, the LEA shall use the data it has collected and any other data received, including the current IEP from the previous LEA if applicable, to determine if it is appropriate to conduct an evaluation of the student.
- i. *Evaluation of Students Transferring from Out-of-State Determined Necessary.*** If the LEA determines that it is necessary to conduct an evaluation, it shall complete the evaluation and determine eligibility under Part B of the IDEA within sixty (60) calendar days of referral. If a student is determined eligible for special education services, the new LEA shall develop and finalize a new IEP that meets the applicable requirements of the IEP process within ninety (90) calendar days of referral. If the parent does not provide consent for the evaluation or fails to respond to a request to provide consent, the LEA may, but is not required to, pursue the evaluation of the student by utilizing the procedural safeguards provided by IDEA regulations, including mediation and due process procedures. If the parent does not provide consent for an evaluation, the LEA shall issue a prior written notice (PWN) before ceasing the provision of comparable services.
- ii. *Evaluation of an Out-of-State Transfer Student Determined Unnecessary.*** A new LEA that determines that it is unnecessary to conduct an evaluation, based on its review of the transfer IEP and evaluation data (*i.e.* student-level data is current and sufficient), shall conduct an annual IEP review and update and finalize the IEP within sixty (60) calendar days of referral, using the District of Columbia's IEP criteria and format in SEDS. In such cases, the triennial evaluation date will not be impacted.

¹³ Newly developed IEPs must meet the requirements of 34 CFR §§300.320 through 300.324; OSSE's Individualized Education Program (IEP) Process Policy (August 30, 2011).



- C. Students Who Transfer from a Private School with a Services Plan.** A student transferring to an LEA from a private school may have a services plan. A *services plan* is a document that specifies the equitable services that will be provided to the student and the terms of service provision.¹⁴ *Equitable services* are special education and related services provided to parentally-placed private school students with disabilities in accordance with IDEA.¹⁵ Generally, services plans are less comprehensive than IEPs because parentally-placed students do not have an individual entitlement to any or all of the services that the students would receive if enrolled in a public school.¹⁶ Therefore, to ensure that a transfer student with an existing services plan receives the appropriate types of services and levels of service under Part B of the IDEA, the LEA shall complete an evaluation of the student and determine eligibility within sixty (60) calendar days of enrollment. If the student is determined eligible, the LEA shall develop and finalize a new IEP that meets the applicable requirements of the IEP process within ninety (90) calendar days of enrollment.
- D. Students Receiving Services Under IDEA Part C.** The DC Early Intervention Program (DC EIP) shall inform LEAs of all children who are potentially eligible for Part B services and who will soon reach the age of three (3) on a monthly basis, unless the family has opted out of providing the LEA with the child's personally identifiable information.¹⁷ A Part B representative from the LEA who receives an invitation to attend a transition conference is expected to attend and participate. The transition conference is held with the approval of the family, no earlier than nine (9) months and no later than three (3) months prior to the child's third birthday. During the transition conference, DC EIP and the LEA are required to clearly explain to parents the difference between the Part C extended Individualized Family Service Plan (IFSP) option (hereinafter referred to as "extended option") and Part B IEP service delivery models.¹⁸
- i. Part C Extended IFSP Option.** Effective July 1, 2014, a child who has a current IFSP and is found eligible for Part B preschool special education and related services, has the option to continue to access early intervention services through an IFSP until the beginning of the school year following his or her fourth birthday. Under the extended option, early intervention services identified on a child's IFSP shall include an educational component that promotes school readiness and incorporates pre-literacy, language, and pre-numeracy skills. Upon utilizing the extended option, a parent of a child with a disability may choose to terminate the child's participation in Part C at any time and, if eligible, receive free appropriate public education (FAPE) through an IEP under Part B.¹⁹

Reestablishing eligibility upon transition from Part C to B, after participation in the extended option, is not necessary unless an LEA determines additional assessments are needed. If the LEA determines that additional assessments are not necessary, the LEA shall develop and finalize a new IEP that meets the applicable requirements of the IEP process within thirty (30)

¹⁴ 34 CFR §300.138(b)

¹⁵ 34 CFR §300.138

¹⁶ 34 CFR §300.137(a)

¹⁷ 5 DCMR §A-3109

¹⁸ 34 CFR §303.209(f)(2)(i)

¹⁹ 34 CFR §303.211(b)(3)



calendar days of receiving the notice of the parent's decision to transition the child to Part B services. If the LEA determines that additional assessments are necessary, the LEA shall complete an evaluation of the student and determine eligibility within sixty (60) calendar days of receiving notice of the parent's decision to transition the student to Part B services. In such cases, an IEP shall be developed for the child no later than thirty (30) calendar days prior to the beginning of the school year after the child's fourth birthday.

- ii. ***Development of the IEP for Children Previously Served Under Part C.*** If a child served by Part C is determined to be eligible under Part B, and the parent chooses to receive special education preschool services through an IEP rather than the Part C extended option, the LEA shall convene an IEP Team meeting to develop an IEP by the child's third birthday. If a child who was previously served under Part C transfers into an LEA in the District of Columbia from another state without an IEP, the LEA must treat the Part C record as a referral for evaluation under Part B, and adhere to the requirements enumerated in Section (B)(i) under "Students Who Transfer to the District of Columbia with an Existing IEP from Another State" on page 4.

LEA RESPONSIBILITY TO ADDRESS AN EXPIRED OR SOON TO BE EXPIRED IEP

An LEA may not implement an expired IEP.²⁰ A new LEA that receives an expired IEP, with no record or documentation of a formal exit from special education (*i.e.* evidence that the student was appropriately exited due to a determination of non-eligibility or parent's withdrawal of consent for services), shall presume that the student remains a "child with a disability" entitled to services under Part B of IDEA. In such cases, the new LEA shall adhere to the procedures and timelines set forth below, request appropriate records, provide comparable services, and conduct an evaluation to ensure that the student is receiving appropriate services and to resolve noncompliance in the student's IEP record. If a student's IEP Team determines that the student is no longer eligible for services under Part B of IDEA, the LEA shall complete all procedural and documentation requirements before ceasing the provision of comparable services.

An LEA that receives a within-state IEP that will expire within thirty (30) calendar days of enrollment shall conduct an evaluation, as appropriate, and develop a new IEP within sixty (60) calendar days of enrollment. An LEA that receives an out-of-state transfer IEP that will expire within thirty (30) calendar days of enrollment shall conduct an evaluation within sixty (60) calendar days of enrollment to determine whether the student is a "child with a disability" under the state-level criteria and develop a new IEP within ninety (90) calendar days of enrollment.

LEA RESPONSIBILITY TO EFFECTUATE AN IEP UNTIL FORMAL EXIT OR GRADUATION WITH DIPLOMA

LEAs are responsible for adhering to all procedural and documentation requirements associated with developing and implementing IEPs until students formally exit special education (*i.e.* student is determined no longer eligible under Part B of IDEA or parent withdraws consent for services) or graduate from high school with a regular high school diploma.²¹ LEAs shall continue to provide special education and related services to students, in accordance to their IEPs, who graduate with an alternative certificate until the end of the semester that the student turns twenty-two (22) years old.²²

²⁰ The IEP must have been "in effect" in the previous LEA. 34 CFR § 300.323(e) and (f). However, an LEA's responsibility to implement comparable services is not negated by the expiration status of a transfer IEP.

²¹ 34 CFR §300.102(a)(3)(i)

²² 34 CFR §300.102(a)(3)(ii); 5 DCMR §E-3002.1(b)



RESPONSIBILITIES REGARDING STUDENT TRANSFERS BETWEEN DCPS AND DISTRICT CHARTER SCHOOLS

As stated on page 2 of this Policy, student transfers between DCPS and District Charter LEAs and student transfers between two District Charter LEAs are considered within-LEA transfers for the purposes of compliance with Part B of the IDEA. To demonstrate adherence with the requirements outlined in this Policy, DCPS and District Charter LEAs shall comply with all requirements regarding the transfer of student records, completion of evaluations when appropriate, and IEP implementation/effectuation. For example, if a student transfers from DCPS to a District Charter, the District Charter must comply with all requirements in this Policy, including records request, provision of comparable services, review of the student's IEP, evaluation of the student, and development of a new IEP, as appropriate.

ADDITIONAL GUIDANCE

This memorandum supersedes all previous policy, memoranda, and guidance issued by the state educational agency (SEA) on this topic. Please direct any questions regarding the content of this document to OSSE, Division of Specialized Education at OSSE.DSEPolicy@dc.gov.