SPECIAL EDUCATION SERVICES TO NON-PUBLIC SCHOOL STUDENTS WITH DISABILITIES WHO ARE PARENTALLY PLACED

Beginning with the 2007/08 school year, the district of location is responsible for child find, including individual evaluations, Committee on Special Education (CSE) meetings, provision of special education services, and due process to parentally placed non-public school students attending non-public schools located in the geographic region of the public school district.

The new requirements do not pertain to parental placements of preschool children with disabilities in private day care or preschool programs or to CSE placements of students with disabilities in approved private schools, Special Act School Districts, and State-supported or State-operated schools, nor does it apply to Charter schools. These requirements only pertain to students with disabilities parentally placed in elementary and secondary non-public schools.

Parental Consent Needed by the School District of Location

Federal law and regulations require the following:

a) If a student with a disability is parentally placed, or is going to be parentally placed in a non-public school that is not located in the school district where the student legally resides, parental consent must be obtained by the school district of location before any personally identifiable information about the student is shared between officials in the public school district of residence and officials in the public school district of location. Therefore, parent consent is required before sharing Individualized Education Programs (IEPs) and other education records between the district of residence and the district of location.

b) Parental consent must also be obtained by the school district of location prior to sharing of personally identifiable information with the non-public school.

c) If a parent who has placed a student with a disability in a non-public school at his/her own expense does not provide consent for the initial evaluation or the reevaluation, or the parent fails to respond to a request to provide consent, the district of location may not use the due process hearing to override lack of parental consent; and the district of location is not required to consider the student as eligible for special education services.

Consultation Requirements with Non-public Schools

The school district of location must consult with non-public school representatives and representatives of parents of parentally placed non-public school students with disabilities enrolled in non-public elementary and secondary schools located within the boundaries of the school district. The school district must engage in consultation regarding the child find process and services generally; consultation is not specific to individual students. Individual services are determined by the CSE. The consultation process must be timely and meaningful and include discussion of the following topics:

Child Find

The child find process must include discussion on how parentally placed non-public school students suspected of having a disability can participate equitably, including the procedures to be followed by the district of location and non-public school to identify students who may have disabilities.

Provision of Special Education Services

Consultation must address how, where and by whom special education and related services will be provided to such students, including a discussion of types of services, such as direct services and alternate service delivery mechanisms.

If the school district disagrees with the views of the non-public school officials on the provision of services or the types of services, whether provided directly or through a contract, the school district shall provide to the non-public school officials a written explanation of the reasons why the school district chose not to provide services directly or through a contract.

Use of Federal Funds

Consultation must also include determination of the proportionate amount of federal funds available to serve parentally placed non-public school students with disabilities, including the determination of how the amount was calculated.

Upon completion of the consultation process, the non-public school representatives must provide written affirmation of their participation in the consultation process. If the non-public school representative does not provide such affirmation within a reasonable period of time, the school district must forward the documentation of the consultation process to the State Education Department (SED).

Child Find Requirements (Including Individual Evaluations and Reevaluations)

Child find is the practical method the public school district of location will develop and implement to identify, locate and ensure the evaluation and identification of students with

disabilities who are parentally placed in non-public schools. The child find activities must be similar to activities undertaken for students with disabilities in the public schools and must be completed in a time period comparable to that for other students attending public schools in the school district. The child find obligations also include parentally placed non-public school children who reside outside of New York State.

The district of location must have procedures for conducting evaluations and reevaluations of students enrolled in non-public schools located within their district within required timeframes and at no cost to parents. The reevaluation requirements apply to all eligible parentally placed non-public school students with disabilities, even those not currently receiving services.

Development of Individualized Education Service Plan (IESPs) and Provision of Special Education Services for New York State Resident Students

The CSE of the district of location will be responsible to develop an Individualized Education Service Plan (IESP) for New York State students with disabilities enrolled by their parents in non-public schools located in the geographic region of the public school. The IESP developed for parentally placed non-public school students must be developed consistent with the manner in which the IESPs of all students with disabilities are developed and the services to be provided cannot be determined based on the proportionate share of federal funds. The CSE of the district of location must ensure that a representative of the non-public school where the student attends is included in the meeting where the IESP is developed. If the representative cannot attend, the school district must use other methods to ensure participation by the private school, including individual or conference telephone calls. The IESP must be reviewed periodically, but not less than annually.

The school district of location is also responsible to provide special education services pursuant to the IESP developed for each eligible student. The parent must request special education services in writing to the school district by June 1 preceding the school year for which the request for services is made. Exceptions to the June 1 request for services deadline must be provided in accordance with law.

Transportation

If special education services are to be provided to a student at a site other than the non-public school, the *district of location* is responsible to provide the special education services, including, as applicable, arranging and providing transportation necessary for the student to receive special education services. The proportionate share of IDEA Part B dollars could be used for such purpose.

The *school district of residence* remains responsible to provide transportation to parentally placed non-public school student from the student's home to the non-public school.

Services Plans for Out-of-State Children

The school district of location must provide, as appropriate, special education services to an eligible student who legally resides in another state and who is parentally placed in a non-public school located in New York State. The services to be provided to *Out-of-State* students must be documented on a services plan that is developed by the CSE of the district of location. The services plan is the written plan that describes the specific special education and related services that the district of location will provide to the student, consistent with the services that the school district of location has determined through the consultation process and in relation to the proportionate shares of federal IDEA Part B dollars, to be provided to the student.

The services plan must, to the extent appropriate, be developed, reviewed and revised by the CSE of school district of location consistent with the requirements for development of an IEP. The parent(s) of the student must be invited to the meeting and the district of location must also ensure that a representative of the non-public school where the student attends be included in the meeting where the services plan is developed. If the non-public school representative cannot attend, the school district must use other methods to ensure participation by the non-public school, including individual or conference telephone calls. The services plan must be reviewed periodically, but not less than annually.

8 New York Code of Rules and Regulations (NYCRR) Part 200