

# Provision of Special Education Services to Nonpublic and Homeschooled Students

*Special Education Seminar  
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# Overview

- Special Education and Related Services
- Transportation
- Health and Nursing Services
- Federal Title Programs
- Textbook Loan Programs
- Computer Hardware and Software Loan Programs
- Instructional Materials Flexibility

# Special Education and Related Services

- Individuals with Disabilities Education Act (“IDEA”)
- New York Education Law § 3602-c
- Public school districts must provide special education and related services to students with disabilities who are parentally placed in nonpublic schools located within the district

# Special Education and Related Services

- Six major obligations:
  - Consultation with nonpublic school officials
  - Child find
  - Evaluation, classification, and provision of special education services
  - Proportional appropriation and expenditure of federal funds to provide services to nonpublic school students with disabilities
  - Obtaining parental consent
  - Data collection and reporting

# Special Education and Related Services

- Consultation topics:
  - The child find process and ensuring meaningful/equitable participation
  - Making parents, teachers, and school officials aware of process
  - How, when, and where services will be provided and types of available services
  - The amount of federal funds available for services for students at the nonpublic school and details on how the amount was calculated
  - How services will be provided if funds are insufficient – under § 3602-c, the district just has to provide
  - Continuing consultation throughout the year
  - How disagreements will be handled

# Special Education and Related Services

- Consultation steps:
  - Initiate consultation
  - Meeting and discussions
  - Document all consultation efforts
  - After consulting with each nonpublic school, obtain written affirmation from the nonpublic school representatives
  - Continuing consultation throughout year

# Special Education and Related Services

- Child find for nonpublic school students
  - Must be similar to child find for public school students, including as to time period
  - Requires ongoing consultation with nonpublic schools to keep an accurate count of students with disabilities and to ensure students suspected of having a disability are appropriately referred to the district's CSE

# Special Education and Related Services

- Evaluation and Classification
  - Nonpublic students are evaluated by the CSE in basically the same way as are public school students
  - Evaluation requires consent – no override procedures
    - If no consent, no obligation
  - After consent and evaluation, the CSE makes the eligibility determination
- Each year, parents of classified students must make a **written request** for special education services by June 1<sup>st</sup> of the preceding school year (or within 30 days of identification)



# Special Education and Related Services

- The CSE must develop an Individualized Education Service Program (IESP) for classified students attending nonpublic school within the district
  - IESP is similar to an IEP, but does not contain a placement
- Services provided pursuant to IESP:
  - Must be provided on an “equitable basis”
  - May be provided through district staff or third-party contract
  - Unless necessary for student’s educational needs, do not have to be provided at the nonpublic school – consider educational needs and least restrictive environment

# Special Education and Related Services

- Expenditure of Funds
  - IDEA funds must be proportionately appropriated and expended for nonpublic students
  - Proportional share is published annually by NYSED
    - This is the minimum that must be spent on services for nonpublic students with disabilities
    - Any local or state funds can supplement, but not supplant, IDEA funds
  - Must use all appropriated funds during the school year or a one year carry-over period
  - District of location can bill the student's district of residency for evaluation, CSE administration, and services provided to the student

# Special Education and Related Services

- Parental Consent
  - Needed for evaluation or reevaluation
  - Needed before information is exchanged between district of location (providing the services) and district of student's residence
  - NOT needed for exchange of information between district of location and the nonpublic school the student attends

# Special Education and Related Services

- Data Collection and Reporting – District’s Verification Report 14 must include:
  - Number of nonpublic students evaluated
  - Number of nonpublic students determined to be students with disabilities
  - Number of nonpublic students receiving special education services

# Transportation

- Education Law § 3635
  - Most districts must provide transportation for nonpublic school students who reside in the district
    - Transportation between home and school for K-8 students who live 2 – 15 miles from school and high school students who live 3 – 15 miles from school
    - If District chooses to go beyond these minimums for its own students, it must do so for similarly situated nonpublic school students
    - For other K-12 students, the district may have to provide transportation between a centralized pick-up location and school
  - City school districts: only have to provide transportation to nonpublic students if they choose to do so for their own students

# Transportation

- Requests for Transportation
  - Parent must file a request for transportation by **April 1<sup>st</sup>** of the preceding school year (or within 30 days of moving into the district)
  - *But*, a late request should be granted if reasonable excuse or if there is an empty seat on the bus which the student would have been assigned and there is no additional cost to the district

# Transportation

- Arranging Transportation
  - Public and nonpublic school officials are urged to cooperate in planning transportation for all students
  - Commissioner's Decisions give public school districts some latitude and require nonpublic schools to be somewhat flexible
    - Including small changes to hours, before- and after-class wait times for nonpublic students, etc.
    - But, districts should be cognizant of the feasibility of changes from the nonpublic school perspective

# Health and Nursing Services

- Education Law § 912
  - Public school districts must provide students who attend nonpublic schools within the district with the same health and nursing services available to the district's own students
  - Examples: physician, dentist, dental hygienist, school nurse, school psychologist, school social worker, or speech language pathologist; vision, hearing, and scoliosis tests; recording and maintaining health histories; physical exams and in-school immunization; and emergency care



# Health and Nursing Services

- Request for Services
  - Obligation to provide health and nursing services is only triggered upon a request by the nonpublic school
  - No particular form, manner, or deadline for the request
    - Best practice: request in the spring of the preceding school year to allow time for budgeting and planning
  - Once requested, the district must provide these services in a manner “equivalent” to those available in public schools

# Health and Nursing Services

- District of location has to provide these services
- *But*, where the student attends nonpublic school in a different district from where he or she resides:
  - The district of location and district of residence must enter into a written contract for the services
  - The district of residence reimburses the district of location
- No district is required to provide these services for non-NYS residents

# Federal Title Programs

- The federal government makes a number of grants available to public school districts
- Under certain of these grant programs, public school districts who receive funds must ensure **equitable participation** in the programs by students (and in some cases staff and parents) at private schools located within district boundaries

# Federal Title Programs

- Equitable participation means:
  - Assessing, addressing, and evaluating needs of private school students
  - Spending an equal amount of funds per student to provide services
  - Providing private school students an opportunity to participate in equivalent activities
  - Offering services that are secular, neutral, and non-ideological

# Federal Title Programs

- Like IDEA, equitable participation requires “timely and meaningful” consultation, including regarding:
  - How private student needs will be identified
  - What services will be offered
  - Who will provide the services (e.g., district staff or third party contractor)
  - How services will be assessed and how assessment results will be used
  - The amount of funds available for equitable services and how the amount was determined
  - The size and scope of the services to be provided
  - How and when decisions about the delivery of services will be made
- Requires a similar affirmation as under IDEA

# Textbook Loan Programs

- Education Law § 701
  - Requires public school districts “to purchase and to loan **upon individual request**, textbooks... to all children residing in such district who are enrolled in a nonpublic school”
  - Request may be made by nonpublic school on behalf of students
  - Textbooks must be loaned out for free, but districts can set reasonable rules and regulations

# Textbook Loan Programs

- “Textbook”
  - Includes all “textbooks which are designated for use in any public schools of the state or are approved by any boards of education, trustees or other school authorities” as well as “courseware or other content-based instructional materials in electronic format”
  - Does not include:
    - Most encyclopedias, almanacs, atlases, and general and special purpose dictionaries
    - Novels, fiction, supplemental textbooks (library material)
    - Some newspapers and magazines
    - Tests and testing materials
    - Sectarian publications
    - Generic computer software

# Textbook Loan Programs

- Districts may wish to adopt a Textbook Loan Policy that:
  - Sets a deadline for the request (no earlier than June 1<sup>st</sup> preceding the school year for which the request is made)
  - Reaffirm that all loaned textbooks remain district property
  - Incorporate by reference any existing fines for lost or damaged textbooks that apply to district students
- Districts should clearly mark all textbooks to indicate ownership and keep records of textbook loans



# Hardware and Software Loan Programs

- Education Law Article 16 (§§ 752, 754)
  - In exchange for receiving state aid for instructional computer hardware and software, public districts are required to loan out such hardware and software on an “equitable basis”
  - Loan obligation is triggered by a request of an individual or a group of nonpublic students
    - Request may be made by nonpublic school on behalf of its students
  - Like with textbooks, hardware and software must be loaned for free, but the district can establish reasonable rules and regulations

# Hardware and Software Loan Programs

- Hardware to be loaned:
  - Includes “instructional computer hardware which is designated for use in any public elementary or secondary schools of the state or is approved by any school authorities”
  - *But*, a district is not required to loan hardware in excess of what it acquires with Article 16 funds or with other funds
- Software to be loaned:
  - Includes “software programs which are designated for use in any public elementary or secondary schools of the state or are approved by any boards of education, trustees or other school authorities”
  - *But*, a district is not required to loan software “in excess of the software programs owned or acquired” by the district

# Hardware and Software Loan Programs

- Districts may wish to adopt an Instructional Computer Hardware and Software Policy that:
  - Sets a deadline for a request for hardware (no earlier than June 1<sup>st</sup> proceeding the school year for which the request is made)
    - Cannot have a deadline for a software request
  - Reaffirms that all loaned hardware and software remain district property
- Districts should clearly mark all hardware to indicate ownership and keep records of hardware and software loans

# Instructional Materials Flexibility

- Education Law amendments in 2011 – 2012 provide flexibility in the use of instructional material aids
  - Includes textbooks, library materials, computer software, and instructional computer hardware
- A district may make this flexibility available to nonpublic schools
  - For example, the district can set a spring deadline request so that funding lines can be established prior to the development of a budget and submission to NYSED



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# Questions

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