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TO: District Superintendents
Superintendents of Schools
Presidents of Boards of Education
New York City Board of Education
Principals of Public Schools Directors
of Pupil Personnel Services
Administrators of Nonpublic

special education services to students with disabilities wh
nonpublic elementary or secondary schools by to speion to

Attachment 1

Guidance on Parentally Placed Nonpublic Elementary and Secondary School Students with Disabilities Pursuant to the Individuals with Disabilities Education Act (IDEA) 2004 and New York State (NYS)

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I. CONSULTATION REQUIREMENTS

The school district of location must consult with nonpublic school representatives and representatives of parents of parentally placed nonpublic school students with disabilities enrolled in nonpublic elementary and secondary schools located within the boundaries of the school district during the design and development of special education and related services for students with disabilities and throughout the school year to ensure that

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How, if the school district disagrees with the views of the nonpublic 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 nonpublic school officials a written explanation of the reasons why the school district chose not to provide services directly or through a contract.

3. Use of Federal Funds

The determination of the proportionate amount of federal funds available to serve parentally placed nonpublic school students with disabilities, including the determination of how the amount was calculated.

How such services will be apportioned if funds are insufficient to serve all parentally placed out-of-state resident students with disabilities and how and when these decisions will be made. (Note: For all NYS students, the school district must provide services pursuant to the student's IESP, regardless of the apportionment of federal funds. For students who are not New York residents who are parentally placed in NYS nonpublic schools, the school district would need to consult on how such students can participate equitably consistent with the federal proportionate share of IDEA funds.)

The nonpublic school representatives must provide written affirmation of their participation in the consultation process. If the nonpublic 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). Attachment 2 provides a sample form for school districts to use to document its consultation process.

See Consultation Questions and Answers

II. CHILD FIND RE on

Provision of Special Education Services

The school district of location is responsible to provide special education services pursuant to the IESP developed for each eligible student. Services must be provided on an equitable basis as compared to other students with disabilities attending public or nonpublic schools located within the school district.

The manner (how, where and by whom) special education and related services will be provided to students is determined by the district of location based on the consultation process and in consideration of the individual needs of the student. The final decision with respect to services provided to individual students is made by the CSE of the district of location. Services provided to parentally placed students may be provided on the site of the

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OR

In the event the parent has not provided consent to release personally identifiable information concerning their child, the school district of location must submit to the Commissioner, in a form prescribed by the Commissioner (under development), a claim for costs of services, evaluation costs, and CSE administrative costs.

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Parental consent must be obtained before any personally identifiable information about the student relating to special education is shared between officials in the public school district of location and officials in s6(nd)]TJ 0 Tc 0 Tc 0 -4-0.006Tc -0.004 Tw 0.32 0 Td [(pu)10(bl)1ntthe

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 to be provided to such students in relation to the proportionate share of federal IDEA Part B dollars .

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 nonpublic school where the student attends be included in the meeting where the services plan is developed. If the nonpublic school representative cannot attend, the school district must use other methods to ensure participation by the nonpublic school, including individual or conference telephone calls. The Services Plan must be reviewed periodically, but not less than annually.

Due Process

A parent of an out-of-state student suspected of having a disability has the right to mediation or an impartial hearing for disputes regarding evaluations and an eligibility determination. Since out-of-state resident students have no individual right to services, there is no right to mediation or an impartial hearing for disputes regarding services.

Costs for Services

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In the 2007-08 school year, it is anticipated that special education data previously collected on the PD-1/4 report will be collected through SED's Student Information Repository System (SIRS). This system will collect data at the individual student level. Directions will be provided to school districts to report enrollment of all parentally placed students with disabilities in nonpublic schools located in the school district. For each student, specific information will be requested to allow SED to complete its State and federal reporting requirements, including information needed to calculate the proportionate share of federal funds for each eligible student.

The district of location must maintain in its records and provide SED the following information related to parentally-placed nonpublic elementary and secondary school students:

the number of students evaluated;
the number of students determined to be students with disabilities; and
the number of students served (i.e., receiving special education services).

VI. PROPORTIONATE SHARE OF FEDERAL DOLLARS

In the 2006-07 school year, the data that school districts reported on the PD-1/4 report (see above) were used to calculate a proportionate per pupil amount of IDEA funds for services to students with disabilities attending nonpublic schools for the 2007-08 school year. Also, in computing the 2007-08 IDEA federal flow through allocation for every school district, SED used the total K-12 enrollment of all students attending public and nonpublic schools located in the school district as reported on the Basic Education Data System (BEDS) forms as the "population factor" in the allocation formula. In previous years, SED used the K-12 enrollment of public and nonpublic students residing in the school district as the "population factor".

SED has posted on its website the actual minimum proportionate share of federal funds for each school district. See: http://www.vesid.nysed.gov/sedcar/federal.htm

This minimum amount must be spent on services for parentally placed nonpublic

Each of the nonpublic school officials should be asked to sign an affirmation that they participated in the consultation process. In the event nonpublic school officials decline participation or to sign the affirmation, the public school district must submit documentation to SED of the consultation process. See Attachment 2.

4. Must the public school district also consult with officials of approved private schools where students are placed by school districts?

   The consultation requirements of 34 CFR section 300.134 do not apply to students placed by CSEs in approved private schools. However, if the approved private school also accepts students who are parentally placed and paying tuition, the public school must also consult with officials of these schools, with respect to those parentally placed students.

5. Can nonpublic school officials file a complaint with SED or the United States Education Department (USED) on the consultation process?

   Yes. A nonpublic school official has the right to submit a complaint to SED that the public school district did not engage in consultation that was meaningful and timely, or did not consideh6(i)6(de)-10(h6(i)4(o)-4( )]TJ -0.006 To)-4( )]TJ -0.006 Tot

student

15. Is it permissible for the district of location to contract with the student's district of residence to provide special education services?

    Yes. Nothing in IDEA or State law would preclude the district of location from contracting with the district of residence as a third party provider to fulfill its obligations to provide special education services, except that parents have the right to

24. What can the proportionate share of federal IDEA funds be spent on?

The proportionate share of federal dollars must be spent on the provision of special education services. Transportation of students with disabilities necessary for students to receive special education services can be considered. The proportionate share of IDEA funds may not be spent on child find activities, including evaluations, nor may they be spent on administrative functions such as CSE meetings. State and local funds may supplement and in no case supplant the proportionate a Td (h.008 Tc 0c 0

Attachment 2

SAMPLE FORM

IDEA Section 611(a) (10) WRITTEN AFFIRMATION OF CONSULTATION WITH NONPUBLIC SCHOOL REPRESENTATIVES CONCERNING SPECIAL EDUCATION SERVICES

1. School districts where nonpublic elementary and secondary schools are located must maintain documentation of timely and meaningful consultations with participating nonpublic schools signed by the representatives of such schools. New York State has provided a sample form (attached) that districts may use in order to secure the signed affirmation by nonpublic school representatives of participation in the required consultation. In the event that a school district chooses not to use the State the r

Attachment 3

Sample Letter to Parents who Place their Children in Nonpublic Schools (written as if coming from the school district of residence)

Dear Parents:

I am writing to inform you of new federal and State requirements

continue to provide requested special education services to your child, pursuant to an IESP.

If your child had an IEP developed at an annual review meeting prior to June 30, 2007 by the CSE of the school district where you reside, with your written consent, the IEP will be shared with the district where the nonpublic school is located. That IEP will become the IESP, unless the school district where the nonpublic school is located develops a new IESP for your child.

If the nonpublic school where you place your child is located within the geographic

schools located within the school district, including students who are not New York residents. The school district [~~**in which the nonpublic school is located**~~] **of location** shall expend a proportionate amount of its federal funds made available under part B of the individuals with disabilities education act for the provision of services to students with disabilities attending such nonpublic schools**, including students who are not New York residents**, provided that such federal funds may not be used for the cost of carrying out the child find requirement. **School districts shall obtain parental consent prior to the release of personally identifiable information concerning a student attending a nonpublic school from records collected or maintained pursuant to Part B of the individuals with disabilities education act between such student's school district of residence and school district of location.**

2-b. The school district of location shall provide special education programs and services to students with disabilities attending nonpublic schools in the school district who are not New York residents to the extent required under federal law and regulations and such students shall not have an individual right to receive special education programs and services pursuant to thiw