

Questions and Answers

1. What factors should a Committee on Special Education consider prior to recommending a student for a residential placement?

The determination that a residential school placement is the least restrictive environment for the student, thus removing a child from his/her home and community, must come only after a committee on special education (CSE) has made the least restrictive environment considerations required for all placement recommendations. In accordance with State law and regulations, school districts must also consider the availability of community support services where students could access additional support for families and the supports and services that may be available from other State agency resources. For additional information on students at risk of residential placement, see <http://www.p12.nysed.gov/specialed/publications/policy/chap600.pdf>.

2. What information should the district know about an approved out-of-State residential school prior to making a placement recommendation for a student with a disability?

While the State approves certain schools and provides general supervision of such schools, it is the district's responsibility to ensure that a particular residential school program is appropriate to implement the student's individualized education program (IEP). Districts should consider information provided by the school which includes, but is not limited to:

- the school's intake process for determining a student's current educational status (e.g., earned credit, courses taken, assessments completed, etc.);
- how the school will provide education consistent with New York State's (NYS) Common Core Learning Standards and Part 100 (general education) course requirements;
- whether the student will receive the required 5½ hours of instruction at the secondary level (grades 7-12) and 5 hours at the elementary level;
- the school's system of positive behavior management and how the school will provide functional behavioral assessment information and implementation of behavioral intervention programs consistent across residential and school programs;
- how the student can take State assessments and the required coursework for credit toward a regular diploma;
- whether the district of residence must make arrangements for a student to take NYS assessments in a district closer to the out-of-State school, travel back to the district of residence to take the State test or send a NYS-certified teacher to the out-of-State school to administer the State test;
- how the student can be awarded a diploma, either from NYS or from the host state;
- how and when the residential school will provide regular student progress reports to the district and to the student's parent;
- how the student's teacher(s) will participate in the required CSE meetings; and

- how the district ensures teachers have access to a copy of the student's IEP and are informed of their IEP implementation responsibilities.

3. If a student earns a diploma from an out-of-State school, does this end his/her eligibility for schooling with NYS?

Yes, if the diploma is considered a regular high school diploma. Earning a high school equivalency diploma does not terminate a student's entitlement to a free appropriate public education.

4. If a student is eligible for a diploma from an out-of-State school, who makes the arrangements?

These arrangements would be the responsibility of the approved private school where the student is enrolled.

5. What are the district's responsibilities to ensure a student placed in an out-of-State residential school takes NYS assessments?

The district of residence is responsible to arrange for a student to take NYS assessments. They may do so through arrangements in a public school district closer to the out-of-State school, returning the student to the district of residence to take the State test or sending a NYS certified teacher to the out-of-State school to administer the State test. Contact the NYS Education Department's (NYSED) Office of State Assessment to obtain technical assistance in making such arrangements (www.p12.nysed.gov/assessment/).

6. What recourse does a district have if a parent impedes the district in its effort to secure a placement of the student in an in-State program?

In the unusual circumstance that a parent is impeding the referral process of a student to an approved private school program, the district should meet with the parent to discuss his/her concerns and explain why the district is seeking a less restrictive placement for the student. Ultimately, the district must take affirmative actions to make arrangements for the student to complete the referral process. If an in-State program accepts the student, the CSE must consider the concerns of the parent in making the placement recommendation. However, a parent's refusal to accept a placement recommended by the CSE cannot be the sole reason to continue a student in an out-of-State placement. Continuing placement of a student in an out-of-State program when there is an appropriate in-State program available is likely to result in the denial of State reimbursement of tuition costs for the placement.

7. **If the student's placement recommendation changes from an out-of-State program to an in-State program, must the district provide the parent with prior written notice?**

Yes

8. **Must the parent provide written consent for a particular placement?**

Except for placement in a Children's Residential Project (CRP), the district does not need parental consent for a change in placement. However, as stated above, the district must provide the parent with prior written notice of its recommendation and the parent has due process rights to disagree with the CSE's recommended placement.

9. **In the event a prospective school conducting the intake process does not have all the necessary student records from the student's current school of attendance, should the approved private school make its decision regarding acceptance based on the information available as submitted by the public school district?**

The district is responsible to ensure that the prospective private school has the appropriate information from the student's record. In the event the application to the private school is incomplete, the approved private school should respond in writing to the district that it is unable to make a decision based on insufficient student records.

10. **Which district is responsible for the CSE functions when a student is placed in an out-of-State child care institution by a local Department of Social Services (DSS)?**

The school district where the child is living at the time the child is placed in the out-of-State facility is responsible for the provision of education services, including CSE functions, if the student is a student with a disability. Education services for these children may be provided by a tutor, by contract with a school connected with the residential program or by contract with the local public school district in which the facility is located. Fiscal responsibility for the education of the student is a cost to the social services district, except that the district where the student resided at the time of placement in the care and custody of social services is responsible for a basic contribution deduction for students with disabilities placed in a NYSED approved out-of-State school. (See page 26 of *Education Responsibilities for School-Age Children in Residential Care* <http://www.p12.nysed.gov/specialed/publications/EducResponsSchoolAgeResidence.pdf>).