



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

OFFICE OF VOCATIONAL AND EDUCATIONAL SERVICES FOR INDIVIDUALS WITH DISABILITIES
STATEWIDE COORDINATOR FOR SPECIAL EDUCATION
Room 1624 One Commerce Plaza • Albany, NY 12234
www.vesid.nysed.gov/specialed/

Telephone (518) 402-3353 Fax: (518) 473-5769

June 2008

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 Elementary and Secondary Schools
Organizations, Parents and Individuals Concerned with Special Education
Impartial Hearing Officers
Commissioner's Advisory Panel for Special Education Services
Commissioner's Advisory Panel for Nonpublic Schools
SETRC Professional Development Specialists
Regional School Support Centers
School Business Officials

FROM: James P. DeLorenzo 

SUBJECT: Guidance on Reimbursement Claims for the Cost of Providing Special Education Services to Parentally-Placed Nonresident Students Pursuant to Education Law Section 3602-c

The purpose of this memorandum is to inform school districts of the process for the school district of location to recover its costs from the school district of residence for New York State (NYS) resident students parentally placed in a nonpublic school who are receiving special education services from the school district where the nonpublic school is located. This memorandum should be read in conjunction with the Department's September 2007 memorandum, "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) Education Law Section 3602-c." (<http://www.p12.nysed.gov/specialed/publications/policy/nonpublic907.htm>)

Education Law section 3602-c, as amended by Chapter 378 of the Laws of 2007, establishes NYS requirements relating to the provision of special education to students with disabilities enrolled in nonpublic elementary and secondary schools by their parents. Pursuant to State law, NYS resident students placed by their parents in nonpublic schools are entitled to receive special education services in accordance with an individualized



education services program (IESP) from the public school district in which the nonpublic school is located while they receive general education from the nonpublic school where enrolled by their parents.

Beginning with the 2007-08 school year, the actual cost for Committee on Special Education (CSE) administration, evaluations and special education services provided to a student with a disability who is a resident of NYS, but a nonresident to the district of location, may be recovered from the student's school district of residence. Because federal regulations require parental consent 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 the public school district of residence, parent consent to share special education information between the two public school districts is required before billing a district of residence for the cost of special education services provided to the student by the district of location. Therefore, the process to recover these funds is different depending on whether the parent of the student has, or has not, provided consent to the school district of location to share personally identifiable special education information with the school district of residence. These two processes are described below:

I. Process for the School District of Location to Recover its Costs from the School District of Residence for NYS Resident Students - Parent Gives Consent to Share Information Between the District of Location and the District of Residence

If the district of location has parent consent to share personally identifiable special education information about the student with the district of residence, the district of location is entitled to directly bill the school district of residence for the costs of evaluation, CSE administration and for providing special education services. The amount charged by the school district of location cannot exceed the actual cost to the school district of location, after deducting any costs paid with federal or State funds.

Districts should ensure that such costs are traceable and supported by source documents that show the validity of such costs, when they were incurred and their relationship to the reimbursable activities.

II. Process for Submission for Reimbursement of Claims to the NYS Education Department (NYSED) for Payment of a Nonresident Parentally-Placed Nonpublic School Student with a Disability - Parent Refuses Consent to Share Information Between the District of Location and the District of Residence

In accordance with section 3602-c of the Education Law, a school district of location may submit a claim to the Department for reimbursement of costs incurred to provide special education services to a student with a disability who is a NYS resident, but resides in another school district, only when the parent of that student has refused consent to share personally identifiable special education information

between the school district where the nonpublic school is located and the school district of the student's residence.

In this case, the district of location may submit a claim to the Department using a form prescribed by the Commissioner (Attachment 2). Upon receipt of a claim and upon certification of the amount of the claim, the Department will:

- submit the claim to the State Comptroller's office for an intercept of funds from the student's school district of residence to the school district providing special education services to the student; and
- notify affected districts of residence of claim amounts it forwards to the State Comptroller's office for an intercept of funds that otherwise would be due to them.

The following conditions apply for submissions of claims to the Department:

- To be eligible for cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs incurred to conduct evaluations, CSE meetings and implement the mandated IESP services.
- Costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred and their relationship to the reimbursable activities. A source document is a document created at, or near, the same time the actual cost was incurred for the event or activity in question (e.g., meeting notes, attendance sheets, sign-in sheets, invoices and receipts). **Source documents are not submitted to the Department unless requested.**
- The claim must include a signed certification by an authorized officer of the school district in which the nonpublic school where the student attends or attended is located that the claim submitted is the actual true and correct costs of providing special education services to the named student for the time period designated in the claim.
- The claim form must include a copy/certification of the parent's refusal of consent to share personally identifiable confidential special education information about the student between the school district where the nonpublic school is located and the school district where the student's parents reside. Where the parent has failed to respond to a request for consent, the superintendent of schools must include this information in his signed certification accompanying the claim form.
- The claim form must include a signed certification by nonpublic school officials of the student's address of record and districts of residence.
- Claims must be received by the Department not later than June 30 of the school year following the year in which services were provided to the student. Claims filed after the deadline or without the requested supporting documentation will

not be accepted.

Questions regarding this memorandum may be directed to the Special Education Policy Unit at (518) 473-2878. Questions regarding submission of a claim for payment to NYSED may be directed to the STAC, Special Aids and Medicaid Unit (518) 474-7116. Questions regarding the calculation of State aid may be directed to Office of Fiscal Services, State Aid Unit at (518) 474-2977.

Attachment 1 - Questions and answers relating to reimbursement for the costs of providing special education services to nonresident parentally-placed students with disabilities

Attachment 2 - Instructions to Submit a Claim for Payment for a Nonresident Parentally-Placed Nonpublic School Student with a Disability When the Parent Refuses Consent to Share Information between the District of Location and the District of Residence

Attachment 3 (Updated December 2013) - Methodology for calculating public excess cost aid to net State Aid out of the billing of resident districts for services provided to nonpublic school students attending nonpublic schools in the district of location.

Questions and Answers

1. What constitutes "actual costs" for purposes of billing a school district of residence for the actual costs of the Committee on Special Education (CSE) administration, evaluations and services?

The level and cost of provision of special education services for dual enrollment nonresident nonpublic school students is likely to vary markedly among students, since some students may, for example, require resource room or related services only while other students may need additional services such as an interpreter or individual teacher aide. The actual costs of providing special education may also vary from school district to school district for students receiving the same level of services. The school district of location must calculate the student-specific cost of the services provided. The following costs would be allowable:

- For evaluations, the actual costs calculation would include the prorated time of the evaluator for the time spent with the student to administer the evaluation and to prepare the written report. The costs of an independent educational evaluation could be included in the cost of evaluations.
- For CSE meetings to develop or review and revise a student's individualized education services program (IESP), the actual costs calculation would include costs incurred by the public school for the actual time spent in a CSE meeting by the CSE members (e.g., the length of the meeting times the prorated hourly cost of the participants based on their actual salaries and benefits) and reasonable administrative costs related to arranging and conducting CSE meetings incurred by the school district for that student. Costs for a school district's attorney to participate in a CSE meeting are not allowable nor are due process costs.
- For provision of special education services, the actual costs calculation would include the prorated time of the actual and direct costs of the services provided to the student, which could include travel costs for the direct purpose of providing such services, minus the net of State and federal aid (and any public or third party insurance benefits) collected. If the cost of a teacher, related service provider or teaching assistant is shared among several students, the cost must be allocated across all students receiving such services (i.e., pro rata share).

2. Does the State have a formula to calculate these costs?

No. The calculation of these costs cannot be based on a formula using either the Estimated or Actual Nonresident Tuition Reports. The Nonresident Tuition Report rates are not applicable since they include costs related to providing general education services to students and are average cost calculations for students receiving services from the public school district for the entire day.

3. When calculating actual costs for staff, can salary plus fringe benefits of the provider be included in the actual costs?

Yes. If the cost of a teacher, related service provider or teaching assistant is shared among several students, the cost must be allocated across all students receiving such services (i.e., pro rata share).

4. May school districts agree on a range of rates they will use for special education services and evaluations?

Yes. Agreement on regional rates may be reached as long as the actual amount charged to a district of residence does not exceed the actual costs for services provided to the student. Using an average of teachers salaries would not be an appropriate calculation as it could result in one district being charged an amount in excess of the actual costs for services to that district's student.

5. Is a contract required between the district of residence and the district of location in order for a district of location to bill costs to the district of residence?

No. Education law section 3602-c does not require a contract for this purpose. However, for budgeting purposes, whenever feasible school districts providing special education services to nonresident students should notify districts of residence of the anticipated costs for such services.

6. What revenue sources must be deducted from costs before billing the resident school district?

The following revenue sources must be deducted from costs before billing the resident school district or submitting a claim to the Department for an intercept of funds from the school district of residence: State aid (see attachment 3), the proportionate share of federal IDEA funds spent on providing services to the student and any public or private insurance proceeds used to provide or pay for services to the student.

7. Which school district claims State Aid? How is State Aid calculated for purposes of deducting such aid for reimbursement of services claims?

The school district of location claims State Aid. Attachment 3 describes the methodology to net State aid out of the billing to resident school districts for special education services provided to nonpublic school students attending schools located in school districts other than the school district where the student resides.

8. How is the deduction of the federal proportionate share calculated for each student?

The State Education Department has posted the actual minimum proportionate share

of federal funds for each school district on its website at <http://www.p12.nysed.gov/sedcar/federal.htm>. This minimum amount must be spent on services for parentally-placed nonpublic elementary and secondary school students with disabilities during the school year. If, by the end of the fiscal year, a school district does not expend the entire proportionate share of its Part B funds on students with disabilities placed by their parents in nonpublic schools, the school district must obligate the remaining funds for special education for such students during the carry-over period.

The actual amount to be deducted from the bill to the district of residence or on the claim form submitted to the Department depends on how the school district of location has determined, based on the consultation process, that it will expend its federal proportionate share for services for parentally-placed students. For example, if the district determined it will expend its federal funds to provide speech and language services, then the proportionate share for each student receiving such services would be deducted from the charges to the district of residence.

9. What if a school district of residence disagrees with the amount charged by the district of location?

The district of residence may submit a request for an administrative review to the Department on a form prescribed by the Commissioner. Proposed regulations regarding this process have been submitted to the Regents for discussion at their June 2008 meeting and are scheduled for approval in July.

NEW YORK STATE EDUCATION DEPARTMENT (NYSED)

**Instructions and Forms to Submit a Claim for Payment for a Nonresident Parentally-Placed
Nonpublic School Student with a Disability When the Parent Refuses Consent to Share
Information between the District of Location and the District of Residence**

In accordance with section 3602-c of the Education Law, eligible claimants may submit claims to NYSED for reimbursement of costs incurred to provide special education services to a student with a disability who is a New York State (NYS) resident, but resides in another school district. Upon certification of the amount of the claim, NYSED will submit the claim to the State Comptroller's office for an intercept of funds from the student's school district of residence to the school district providing special education services to the student. These costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred and their relationship to the reimbursable activities. A source document is a document created at, or near, the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, meeting notes, attendance sheets, sign-in sheets, invoices and receipts.

The following are claiming instructions and forms that eligible claimants will use for filing claims for parentally placed nonpublic students with disabilities who reside in another NYS school district.

FILING DEADLINES

A claim for reimbursement must be filed with NYSED no later than June 30 of the school year following the year in which services were provided to the student.

REIMBURSEMENT OF CLAIMS

To be eligible for cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs incurred to conduct evaluations, committee on special education (CSE) meetings and implement the mandated individualized education services program (IESP) services. Claims should be rounded to the nearest dollar.

ADDRESS FOR FILING CLAIMS

Submit a signed original and a copy of the Claim for Payment for a Nonresident Parentally-Placed Nonpublic School Student with a Disability to:

New York State Education Department
STAC, Special Aids and Medicaid Unit
Education Building - Room 514W
89 Washington Avenue
Albany, NY 12234

Fax: (518) 402-5047



Claim for Payment for a Nonresident Parentally-Placed Nonpublic School Student with a Disability

New York State Education Department
STAC, Special Aids and Medicaid Unit
Education Building - Room 514W
89 Washington Avenue
Albany, NY 12234
Fax: (518) 402-5047

Student Identifying Information	School District of Student's Residence
Name of Student:	Name:
Date of Birth:	Address:
Address of Student's Permanent Residence:	BEDS Code:

Nonpublic School Student Attended
Name of School:
Address of Nonpublic School:
Name of Nonpublic School Official:

Claim for Costs (include dates and/or time periods services were provided)

Evaluation(s):
Dates of Evaluations(s):

Special Education Services:
Dates of Services Provided: From: _____ To: _____

Committee on Special Education (CSE) Administrative Costs: _____
Date(s) of Meetings: _____

The following revenue sources must be deducted from costs before billing the resident school district:
State Aid: _____ (see Attachment 3 calculation form)
Federal funds: _____ (see http://www.vesid.nysed.gov/sedcar/federal.htm)
Medicaid: _____
Total deduct: _____ (State Aid + federal + Medicaid funds)

Total Amount of Claim
Total Cost: _____
Total Deduct (as calculated above): _____
Total Claim (Total cost minus Total Deduct): _____

Note: A copy/certification of the parent's refusal of consent or failure to respond to a request for consent to share personally identifiable special education information on the student between the school district where the nonpublic school is located and the school district where the student's parents reside must be attached.

CERTIFICATION BY SCHOOL SUPERINTENDENT

Pursuant to section 3602-c as amended by Chapter 378 of the Laws of 2007, I hereby submit the following claim for reimbursement of costs incurred to provide special education services to a nonresident New York State (NYS) student with a disability parentally placed in a nonpublic school located in this school district. This claim is being submitted to the New York State Education Department (NYSED) because the parent of the student has refused or failed to respond to a request for consent to the sharing of personally identifiable special education information between this school district and the school district where the student's parents reside. If the parent has declined to consent, a copy of the parent's refusal of consent is attached.

I _____ (name of District Superintendent) of the _____ (name of school district of location) am certifying that the _____ (name of school district of location) incurred the costs below for a student who resides in the _____ (name of school district of residence) and has been parentally placed in a nonpublic school located in _____ (name of school district of location). I am requesting the State Comptroller to withhold State reimbursement from the student's school district of residence in the amount of the claim and to pay that amount to this school district which is the school district where the nonpublic school is located. I certify (or declare) under penalty of perjury under the Laws of the State of New York that the claim submitted is the actual true and correct costs of providing special education services to the named student for the time period designated in the claim.

Signature of School Superintendent: _____

Date: _____

**CERTIFICATION BY NONPUBLIC SCHOOL OFFICIALS
OF STUDENT'S ADDRESS OF RECORD AND DISTRICT OF RESIDENCE**

I certify (or declare) under penalty of perjury under the Laws of the State of New York that the student's address of record and school district of residence identified below are consistent with the information available to the nonpublic school the student attends.

Student Identifying Information	School District of Student's Residence
Name of Student:	Name:
Date of Birth:	Address:
Address of Student's Permanent Residence:	To be completed by the School District of Location: BEDS Code of the School District of Residence:

Typed Name of Nonpublic School Representative: _____

Signature of Nonpublic School Representative: _____

Date: _____ Telephone Number: _____

E-mail Address: _____

(Updated December 2013)

Methodology for Calculating Public Excess Cost Aid

The State Aid attributable to each nonresident nonpublic school student to whom your school district is providing special education services must be deducted from the cost billed to the school district where the student resides (district of residence). The following links provide the spreadsheets containing the methodology for calculating public excess cost aid to net State Aid out of the billing of resident districts for services provided to nonpublic school students attending nonpublic schools in the district of location:

2008-09 School Year Worksheet

http://stateaid.nysed.gov/speced/xls_doc/att3_200809sy_060409.xls

2009-10 School Year Worksheet:

https://stateaid.nysed.gov/attendance/xls_docs/attachment3_for_200910schoolyear_092109.xls

2010-11 School Year Worksheet:

https://stateaid.nysed.gov/speced/xls_doc/att3_201011sy_110810.xls

2011-12 School Year Worksheet:

https://stateaid.nysed.gov/speced/xls_doc/att3_201112sy_120111.xls

2012-13 School Year Worksheet:

https://stateaid.nysed.gov/speced/xls_doc/att3_201213sy_120612.xls

2013-14 School Year Worksheet:

https://stateaid.nysed.gov/speced/xls_doc/att3_201314sy_120213.xls

If you have any questions on these spreadsheets, please contact Bruce Jesiolowski of the New York State Education Department's Office of State Aid at bjesiolo@mail.nysed.gov or (518) 474-2977.