

REGULATION XIV: APPROVED PRIVATE AGENCIES

A. STUDENTS PLACED IN APPROVED PRIVATE AGENCIES BY PUBLIC AGENCIES

RESPONSIBILITY OF THE SEA (34 CFR 300.146)

The Department of Elementary and Secondary Education (DESE) ensures that when a student with a disability is placed in or referred to an approved private agency by the state or public agency, the student is provided special education and related services in conformity with an individualized education program and at no cost to parents. Each student must be provided an education that meets the standards that apply to education provided by DESE and public agencies and each student has all the rights of a student with a disability who is served by the public agency.

IMPLEMENTATION BY THE SEA (34 CFR 300.147)

DESE will approve private agencies in accordance with standards developed for public agencies through procedures, such as a review of policies and procedures, written reports, parent questionnaires, and on-site visits.

All private agencies approved by DESE receive a copy of State Standards and Regulations for special education.

DESE will provide representatives from approved private agencies the opportunity to participate in the development and revision of state standards that apply to them.

Any private educational agency which desires to contract with a public agency or with the State Board of Education to provide special education and related services for students with disabilities shall make application to the State Board of Education for review and approval by staff of DESE as outlined herein.

RESPONSIBILITY OF THE PUBLIC AGENCY

Public agencies can only contract with private agencies that have been approved by the State Board of Education for the placement of students with disabilities. Part B funds cannot be used to pay for services from unapproved private agencies.

PRIVATE SCHOOL PLACEMENTS BY PUBLIC AGENCIES

Before a public agency places a student with a disability in or refers a child to a private school or facility, the agency shall initiate and conduct a meeting to develop an IEP for the student. The agency shall ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the agency shall use other methods to ensure participation by the private school or facility, including individual or conference telephone calls.

After a student with a disability enters a private school or facility, any meetings to review and revise the student's IEP may be initiated and conducted by the private school or facility at the discretion of the public agency. If the private school or facility initiates and conducts these meetings, the public agency shall ensure that the parents and an agency representative are involved in any decision about the student's IEP and agree to any proposed changes in the IEP before those changes are implemented.

Even if a private school or facility implements a student's IEP, responsibility for compliance with this part remains with the public agency and the SEA.

B. APPLICATION, EVALUATION, AND APPROVAL OF PRIVATE EDUCATIONAL AGENCIES

STATUTORY AUTHORITY

Pursuant to state law, a public agency may, if no adequate program is available in nearby districts or through public agencies, contract with any organizations within the state which meet the standards established by the State Board of Education for services for students with disabilities. Agencies will be approved and monitored by DESE.

AGENCY DEFINED

For the purpose of these provisions, a private organization is defined as any organization which has programs meeting the standards established by the State Board of Education with the exception of any organization established for a sectarian purpose or whose governance is controlled by any religious creed, church, or sectarian denomination.

AGENCY POLICIES AND PROCEDURES

Agencies shall be organized and operated according to written policies and procedures. Those written policies and procedures must include statements that the agency will:

- (1) Comply with the provisions of IDEA, including all of the procedural safeguards provided for in that Act;
- (2) Provide all services to students with disabilities under contract from a public agency in accordance with the student's Individualized Education Program (IEP);
- (3) Provide all services at no cost to the parents;
- (4) Ensure that the student has the same rights as a student with a disability served by the public agency with whom the contract is negotiated;
- (5) Have a written Code of Conduct which has been shared with the parents of the students with a disability and the public agency with which the contract has been negotiated; and,

- (6) Have a written procedural plan which coordinates the evaluation of all programs and services provided to students with disabilities which includes:
 - a. program goals and objectives for each program and service, and
 - b. evaluation criteria and procedures for each offered program/service.

Special educational services provided by the agency, pursuant to contract with public agency(s), shall conform to the aforementioned policies. To document that those services will conform, each agency must sign an "Assurances" statement provided by DESE.

Private agency approval may be withdrawn by DESE if the agency's written policies and procedures, as they relate to IDEA, are not being followed by the agency and the agency fails to correct the situation in a timely manner.

ADMINISTRATION OF PROGRAMS

The educational programs provided by agencies shall be provided administrative direction by a person who has certification in an area of special education or related area which is appropriate for the educational program(s) the agency provides.

PROVISION OF FREE APPROPRIATE PUBLIC EDUCATION (FAPE)

The curricula of private educational agencies shall include all the areas for which instruction is provided, per the contract and the student's IEP. It shall be in writing and revised, as necessary. Agencies shall provide instruction and related services:

- (1) In conformance with their contractual arrangement with the public agency;
- (2) In conformance with an IEP that meets the requirements of IDEA;
- (3) At no cost to parents;
- (4) That meets the standards that apply to education provided by the public agency including access to the general education curriculum, as determined appropriate by the IEP team; and,
- (5) In accordance with the provisions of the Procedural Safeguards as referenced in Regulation V of this State Plan as they apply to private agencies.

FACILITIES, TRANSPORTATION, EQUIPMENT, AND MATERIALS

Agencies shall provide appropriate facilities, equipment, and materials to effectively deliver special education and related services to all students serviced via contract.

Agencies shall comply with appropriate health and environment, occupancy, fire safety, transportation, and accessibility standards as are warranted by the services which the agency has contracted to provide.

CERTIFICATED AND LICENSED PROFESSIONAL STAFF

Agencies shall retain appropriately certificated staff according to the personnel standards in these regulations to deliver the services for which public agencies have contracted. Personnel records shall be maintained for all certificated and licensed professional staff.

AGENCY AND STUDENT RECORDS

Agencies shall maintain an organized system of accurate and current records which pertain to the administration of the agency and the delivery of special education and related services. Student records shall be maintained consistent with the provisions of the Family Educational Rights and Privacy Act, 34 CFR 99.1-99.67. Agencies shall provide a contracting public agency, upon written request, complete and timely access to all of the private agency records which pertain to the delivery of services to student(s) served through contractual agreement with that public agency. The private agency shall maintain sufficient and accurate records to document the delivery of appropriate special education and related services.

ADMINISTRATIVE AND SUPPORT SERVICES

The private agency shall provide appropriate administrative and support services, as needed, for the effective delivery of special education and related services for contract students.

PROFESSIONAL DEVELOPMENT

The private agency shall assure that all personnel receive in-service training, as appropriate, to be effective in the delivery of special education and related services.

AGENCY APPROVAL

Initial applicants will submit a written application for approval to the Office of Special Education and shall be reviewed on-site. Disposition will be one (1) of the following: approved without condition, conditional approval, or not approved.

All agencies will annually submit a written assurance statement/program update to the Office of Special Education.

NONDISCRIMINATION

Agencies shall ensure equal employment/educational opportunities regardless of race, color, creed, national origin, sex, disability, or age in its programs and services.

APPEAL PROCEDURE FOR PRIVATE AGENCIES

An agency will be provided with notice and an opportunity for a hearing upon disapproval of an application under these provisions. This notice shall contain:

- (1) A statement of the basis upon which DESE has disapproved the application;
- (2) A description of the corrective action needed to resolve the issue;
- (3) Advisement that a hearing may be requested before DESE not later than thirty (30) days from receipt of the notice of disapproval; and,
- (4) Information about the procedures applicable to the hearing process.

An applicant requesting a hearing pursuant to this section must do so in writing directed to the Assistant Commissioner for the Office of Special Education. Within thirty (30) days of the date of receipt of the request, the Assistant Commissioner or a designee shall schedule and conduct the hearing. Not later than thirty (30) days after the formal close of the hearing, a written ruling shall be forwarded to the applicant.

Appeal of the Assistant Commissioner's ruling is authorized pursuant to Chapter 536, RSMo.