4.6 Transfers Into District, Temporary IEPs, and Diagnostic Placements

I.   Intrastate Transfers [34 CFR 300.323(e)]

"Intrastate" transfer refers to a situation where the student transfers into the school district from another school district in the <u>same state</u>. IDEA regulations requires that if a child with a disability (who had an IEP that was *in effect* in a previous district in the same State) transfers to a new district in the same State, and enrolls in a new school *within the same school year*, the new public agency (in consultation with the parents) must provide FAPE to the child (including services *comparable* to those described in the child's IEP from the previous district), <u>until</u> the new district *either*

- *Adopts* the child's IEP from the previous district; or
- Develops, adopts, and implements a *new IEP* in accordance with State and Federal requirements.

Neither the IDEA nor the regulations address a district's obligation to provide services to a student who transfers *over the summer*. However the Education Department has noted that each district must have an IEP <u>in place</u> for each resident student with a disability at the <u>start</u> of the school year.

<u>Comparable Services</u>. The Education Department declined to define "comparable services" in The 2006 Final Part B regulations. It explained that the department interprets "comparable" to have the plain meaning of the word, which is "similar" or "equivalent". OSEP, in *Letter to Campbell*, IDELR 265 (OSEP 1989), stated than when the new district *cannot* implement the IEP designed by the old district, the new district must provide services that *approximate*, *as closely as possible*, those called for in the IEP of the old district. The obligation to provide comparable services applies only when a student transfers to the new district during the academic year.

<u>Obtaining Records</u>. IDEA 2006 requires that the new school in which the student enrolls take reasonable steps to <u>promptly</u> obtain his records, including the IEP and supporting documentation, along with any other records relating to the provision of special education and related services. The prior school is also required to take reasonable steps to promptly respond to any such request from the new school.

<u>Temporary IEP</u>. Pending the development of an updated or "finalized" IEP (i.e., an IEP designed to provide educational services for 12 months), the receiving school district must take two actions for a student with a disability transferring from another school district *within the same state*:

- Convene an IEP meeting *within a short time* after the student's enrollment in the district. <u>OSEP recommends that this meeting be held within one week (five school</u>

days) in the normal course of events. (Depending on the individual circumstances of the child, the IEP meeting could be held at the time the parent brings the child to the school for enrollment, or, if there are educational/safety/medical etc., concerns that require additional information in order to determine an *appropriate* temporary placement, the parent can be asked to return to the school with the child at a future date, preferably no later than five (5) school days.)

- Place the student in an interim program using a Temporary IEP, wherein the student must receive *comparable services* to the student's previous IEP, to the extent possible, pending the development of a new IEP.

- Temporary placements should be in effect only as long as it takes the district to develop an updated or finalized IEP, and in no case, except in unusual or extraordinary circumstances, longer than 30 calendar days.

- For intrastate transfers, the receiving district is not required to conduct a new evaluation unless there are not sufficient current evaluation data from the sending district upon which to develop a finalized IEP.

II.   Interstate Transfers [34 CFR 300.323(f)]

If a child with a disability (who had an IEP that was in effect in a previous district in another State) transfers to a district in a new State, and enrolls in a new school within the same school year, the new district (in consultation with the parents) must provide the child with FAPE (including *services comparable,* or as close an approximation as possible, to those described in the child's IEP from the previous district), until the new district

- Conducts a new evaluation (required if the evaluation date from previous district is close to or more than three (3) years old, or, if otherwise determined to be necessary by the new district); and
- Develops and implements a new IEP, if appropriate, that meets State and Federal requirements.

Adopting the child's previous IEP from another state is not cited as an option under the IDEA for interstate transfers as it is for intrastate transfers.

III.   Temporary IEP Team Membership

At the very least, the membership of an IEP team convened to develop a Temporary IEP for a student transferring into the district must include the parent, a campus administrator or designee, the student as appropriate, and at least one general and/or special education teacher who will be the temporary teacher(s) of the child until a new Annual IEP is developed. Parents can be asked to waive the five- (preferably ten-) day advance notice requirement for an IEP Meeting requirement in order to avoid an unnecessary delay in the provision of services to the child.

IV.   GISD Documentation Procedures for Temporary IEPs

There is no separate field in PowerSchool for Temporary IEPs. Therefore, Temporary IEPs submitted to special education will be entered into PowerSchool by the special education data entry clerks as follows:

- The date the Temporary IEP was held will be entered as the most recent Annual IEP date.

- The date, *01-01-___* (using the current year in the last field), will be entered as the date of the most recent evaluation. Since there will never be evaluations dated *01-01* (New Year's Day) of any year, this date serves as a "flag" that an IEP is a Temporary IEP (and is therefore good for only 30 calendar days).

- Monthly queries by the data entry clerks of IEPs with the *01-01-___* date will reveal all Temporary IEPs in the district that have not yet been updated. The *01-01___* date will be removed and replaced with the actual evaluation date (either the date of the evaluation from the previous district or the date of the evaluation done by this district) once the IEP is updated and finalized.

IV.   Diagnostic Placements

Diagnostic placements are a special type of temporary placement, and may apply to any student with a disability, not just to students who are transferring into the district. Diagnostic placements may be appropriate in situations when a district believes it needs time to learn more about a student's unique needs and/or the appropriateness of a particular placement. If the student adjusts well, the placement could become permanent. If the placement appears to be inappropriate for the student, a more suitable setting can be identified, taking into account what has already been learned about the student's needs.

A diagnostic placement should last only for a short time - no longer than is needed to gain the necessary information about the student. The following guidance from Appendix A to the 1999 IDEA Regulations applies when a district decides to use a diagnostic placement:

- Develop an interim (time-limited) IEP for the child that explains the specific conditions and timelines for the trial placement. (For students already enrolled in the district, an IEP Amendment, with an accompanying Written Notice of Proposed Actions, could be utilized.)
- Ensure that the parents agree to the interim placement before it is carried out, and that they are involved throughout the process of developing, reviewing and revising the child's program.
- Set specific deadlines (e.g., 30 days) for completing any necessary evaluations, finalizing the IEP, and determining the appropriate placement for the student.
- Conduct a meeting at the end of the trial period in order to complete the child's IEP.

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