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SUBJECT: Interdistrict Placements – New School Code Provisions

TO: Pennsylvania School Administrators

FROM: Joseph F. Bard
Commissioner for Elementary
And Secondary Education

In Act 16 of 1993, the General Assembly made amendments to the School Code concerning students from one district who is placed in another district. These amendments supplement the long-standing language of Sections 1306, 1308, 1309, and 2561 of the School Code. Sections 1306- 1309 are chiefly relevant when a student is placed for residential purposes by an agency other than an education agency (such as a child welfare agency) outside of the student's home school district. The School Code refers to these students as "nonresident inmates of children's institutions."

In this memorandum, we refer to the district in which the student's family resides as the *home* district and we refer to the district in which the student is placed for residential or other purposes as the *host* district.

Program and Planning Responsibility (§1306)

Section 1306(a) has for some time required districts to permit certain children whose parents live in other districts to attend host district schools. New provisions in §1306(c)-(e) deal with special education students whose situations may raise questions that were not answered by earlier School Code provisions. Here is the text of the new statutory language:

- (c) Except as provided in subsection (d), whenever a student described in this section is a suspected or identified eligible student as defined in 22 Pa. Code Chs. 14 (relating to special education services and programs) and 342 (relating to special education services and programs), the school district in which the institution is located is responsible for:
 - (1) providing the student with an appropriate program of special education and training consistent with this act and 22 Pa. Code Chs. 14 and 342; and

- (2) maintaining contact with the school district of residence of the student for the purpose of keeping the school district of residence informed of its plans for educating the student and seeking the advice of that district with respect to the student.
- (d) The student's school district of residence and the school district in which the institution is located may agree to an arrangement of educational and procedural responsibilities other than as contained in subsection (c), provided that the agreement is in writing and is approved by the Department of Education after notice to and an opportunity to comment by the parents of the student.¹
- (e) Nothing in this section is intended to supersede section 914.1-A of this act or any other provision of law applicable to a particular type of placement.

We understand this legislation to mean that:

- For special education students who are within the scope of §1306, the home district and the host district can divide up the educational responsibilities and the procedural responsibilities however they agree to do so, provided that the division of responsibilities is approved by the Department after notice to the parents. A written request for approval may be submitted to the PDE Special Education Adviser for Policy. Such a request should include assurance of input by the parents and an outline of how the host and home district propose to handle educational and procedural responsibilities in ways which differ from subsection (c).
- In the absence of a specific agreement, the host district is responsible for fulfilling all of the special education responsibilities under Chapters 14 and 342 (Special Education Regulations and Standards), with respect to that student. The host district is also responsible for keeping in contact with the home district, so that the home district can be an active participant in the planning process.
- For any specific situation that is already addressed elsewhere in the School Code – such as placements in Private Residential Rehabilitative Institutions (PRRIs) – those existing School Code provisions are controlling and are not negated by these new amendments.

¹ A written request for approval may be submitted to the PDE Special Education Adviser for Policy. Such a request should include assurance of input by the parents and an outline of how the host and home district propose to handle educational and procedural responsibilities in ways which differ from subsection (c).

Fiscal Responsibility and Computation of Amount (§§1306 and 1309)

In general, the home district is responsible for reimbursing the host district. The amendment to §1309 states that, where the student is a special education student, the amount to be reimbursed can be up to 150% of the host district's usual tuition rate.

As we understand it, the General Assembly sought to balance two factors: (1) the legitimacy of requiring the home district to pay more than the usual tuition rate in some or all cases when the student is a special education student; and (2) the inappropriateness of allowing the host district to charge any amount it wishes. Once school districts gain experience under the new law, we will be interested in receiving comment on the 150% cap, so that we can pass those comments on to the General Assembly.

Fiscal Processing (§1308)

Amendments to §1308 provide for a direct link between the host district and the home district, consistent with recent practice in the Commonwealth.

Voluntary Interdistrict Placements (§2561)

The “§1306” situations discussed above involve placements made by someone other than the school officials of the home district. In such cases, the tuition amount is set by law, not by the mutual agreement of the home and host districts. A new §2561(7) has been enacted to address a different type of situation-where the home district itself is making a special education placement in a host district that voluntarily agrees to provide all necessary educational services. In such cases, the two districts can agree on a payment amount of their own choice, without regard to any particular formula or rule. This allows districts maximum flexibility when consensually arranging to provide special education.

REFERENCES:

SCHOOL CODE

24 P.S. §§1306, 1308, 1309, 2561

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