

## **Student Enrollment in Department-Funded Slots for Services Provided by the Approved Private Schools and Chartered Schools for the Deaf and Blind**

**24 P.S. §§ 13-1302; 13-1372**

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### **PURPOSE**

This Basic Education Circular provides guidance on how a school district can place a student in an approved private school pursuant to an Individualized Education Program (IEP) and receive partial funding for the placement from the Pennsylvania Department of Education (PDE), when such funding is available, pursuant to sections 1376 and 1376.1 of the Public School Code.

### **SCHOOL DISTRICT RESPONSIBILITY**

Local education agencies are responsible for the education of all students residing within their boundaries (24 P.S. §§ 13-1302; 13-1372). The primary responsibility for identifying all exceptional children and then developing educational programs to meet their needs rests with the local education agencies (*Veschi v. Northwestern Lehigh School District*, 772 A.2d 469, 473 Pa. Cmwlth. 2001). Although local education agencies are responsible for providing and maintaining the special education programs or schools necessary to educate exceptional students, a local education agency may be unable to provide the educational program required. When such circumstances exist, the local education agency must secure such education and training, as specified by the IEP team, outside the local education agency's schools or in special institutions (24 P.S. § 13-1372(3)). Regardless of whether a local education agency provides educational services to its special education students or secures an appropriate education outside the local education agency's schools, the local education agency remains financially responsible for the costs associated with the education of those students (24 P.S. § 13-1308).

### **APPROVED PRIVATE SCHOOL AND CHARTERED SCHOOLS FOR THE DEAF AND BLIND/SUPPLEMENTAL FUNDING**

One option available to local education agencies is to provide services for exceptional students in approved private schools or chartered schools for the deaf and blind. The commonwealth appropriates *limited* supplemental funds to aid local education agencies by providing funds to help pay a portion of the tuition of special education students placed in approved private schools and chartered schools for the deaf and blind. The Public School Code provides a specific process for distributing this *limited* supplemental funding appropriation to approved private schools and chartered schools for the deaf and blind (24 P.S. §13-1376; 13-1376.1). This process begins with calculating the portion of the approved private school or chartered schools for the deaf and blind appropriation distributed to each approved private school and chartered schools for the deaf and blind (24 P.S. §13-1376(a.2)(3); 13-1376.1 (b.2)). The portion of the appropriation each approved private school and chartered school for the deaf and blind receives, in conjunction with the tuition rate or rates of the approved private school and chartered schools for the deaf and blind, determines the number of PDE partially-funded slots that are available at each approved private school or chartered school for the deaf and blind.

Independent of the funding process, an IEP team must decide to place a student at an approved private school or chartered school for the deaf and blind. Then, an approved private school or chartered school for the deaf and blind either must either accept or deny the student entrance into their program. If a student has been accepted into the approved private school or chartered school for the deaf and blind, the sending school district may apply to PDE for the limited supplemental funds. However, the student must be accepted by the approved private school or chartered school for the deaf and blind in a PDE partially-funded slot, also known as a 4010 slot. This must be indicated on the approved private schools or chartered schools for the deaf and blind's letter of acceptance. Approved private schools and chartered schools for the deaf and blind have a limited number of PDE partially-funded slots, and students are enrolled these slots on a first-come, first-serve basis. If a student has been enrolled into a PDE partially-funded slot, then the commonwealth pays 60 percent of the tuition and the responsible local education agency pays the remaining 40 percent. When there are no PDE partially-funded slots available, the responsible local education agency has to pay the entire cost of educating the special education students in approved private schools or chartered schools for the deaf and blind out of its own budget, unless other sources of funding are available.

### **PDE APPROVAL**

Special education services must be provided in conformity with an IEP (34 C.F.R. § 300.17). Likewise, a student's placement in an approved private school or chartered school for the deaf and blind must be based on the student's IEP (34 C.F.R. § 300.16). Since the student's IEP team does not include any representative of PDE, PDE plays no role in determining the educational appropriateness of the placement of a special education student at an approved private school or chartered school for the deaf and blind.

According to the public school code 24 PS 13-1376 and 1376.1, PDE makes *no determination* as to the appropriateness of a student's placement in approved private schools or chartered school for the deaf and blind. Instead, PDE only approves partial-funding of a student's placement. PDE bases its approval of funding solely on whether there are partially-funded slots available.

### **FUNDED AND UNFUNDED SLOTS**

The public school code 24 PS 13-1376 (c.5) and 1376.1 (f.3) states: An approved private school or chartered school for the deaf and blind may enroll students in excess of the approved full-time equivalent enrollment. Where an approved private school or chartered school for the deaf and blind enrolls students in excess of the approved full-time equivalent enrollment, it must show a corresponding decrease in its approved tuition rate.

This language only serves as a limitation on approved private schools or chartered schools for the deaf and blind from enrolling students in PDE partially-funded slots in excess of the number of slots supported by the appropriation and expecting payment from PDE. As such, an approved private school or chartered school for the deaf and blind is permitted to enroll students in non-PDE partially-funded slots with the school district bearing the sole cost of the tuition. Consequently, it is important for approved private schools or chartered schools for the deaf and blind to inform a local education agency when PDE partially-funded slots are filled and that the local education agency is responsible for paying the full tuition for the student.

**REFERENCES:****Purdon's Statutes**

24 P.S. §13-1372 (a.2)(3)  
24 P.S. §13-1308  
24 P.S. §13-1302  
24 P.S. §13-1376 (a.2)(3) (c.4)(c.5)  
24 P.S. §13-1376.1

**Federal Regulations**

34 C.F. R. § 300.17  
34 C.F.R. § 300.116

**Other**

*Veschi v. Northern Lehigh School District*, 772 A. 2d 469, 473 (Pa. Cmwltth. 2001)  
*Abington v. Department of Education*, -- A.3d --, No. 962 C.D. 2012 (Pa. Cmwltth. 2013).

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