




SANDY GARRETT
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION
OKLAHOMA STATE DEPARTMENT OF EDUCATION

MEMORANDUM

TO: Superintendents and Special Education Directors/Contacts
FROM: Sandy Garrett 
DATE: January 20, 2005
SUBJECT: Oklahoma State Department of Education Policy Statement Concerning Out-of-State Residential Placements

The Oklahoma State Department of Education (OSDE) is committed to ensuring that every Oklahoma child with a disability receives a free appropriate public education (FAPE) as mandated by the Individuals with Disabilities Education Act (IDEA).

The federal regulation at 34 CFR § 300.13, states that special education and related services are to be provided at public expense, under public supervision and direction, and without charge to parents. In addition, IDEA requires that a continuum of alternative placements be made available to meet the needs of children aged birth through twenty-one with disabilities. The federal regulation, at 34 CFR § 300.551, specifies that the required continuum include special education instruction in regular classes, special classes, special schools, in the home, in hospitals, institutions, or other settings, as determined by the child's Individualized Education Program (IEP) team.

The educational placement of a child with a disability should always be in the least restrictive environment, and as close as possible to the child's home, as determined by the IEP team. However, it must be recognized that the nature or severity of a child's disability may be such that the child simply cannot receive FAPE in a regular classroom or special classroom in a neighborhood school. Indeed, IDEA contemplates that for some children placement in a residential educational program (private or public) may be required. In such an event, the federal regulation at 34 CFR § 300.302, specifies the program, including nonmedical care and room and board, must be at no cost to the parents of the child.

Out-of-state residential placements should be necessary only for those children who, because of the nature and severity of their disability, cannot receive FAPE in a less restrictive environment with appropriate accommodations and related services. However, when such a placement is necessary, it must be provided. The OSDE is adopting the following policy regarding funding of such placements:

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In order to facilitate the out-of-state residential placement recommended by a local IEP team, the Oklahoma State Department of Education will contract with and pay for the out-of-state facility. The local school district continues to be responsible for the special education and related services determined necessary for all children with disabilities. In regard to out-of-state residential placements, the local school district will be financially responsible only for funding (via payment to the OSDE) in the amount of one teacher's salary based on the school districts average teacher salary for the preceding year and reimbursement to parents/guardians for reasonable and necessary travel related expenses associated with the out-of-state placement, per contract year. Attached, you will find guidelines designed to assist IEP teams in answering questions needed to determine whether an out-of-state residential placement is necessary and appropriate in order to provide FAPE to a particular child with a disability.

Should you have any questions or need further clarification, please do not hesitate to contact Ms. Misty Kimbrough, Interim Assistant State Superintendent, Special Education Services, at (405) 521-4862.

MK

cc: Misty Kimbrough, Interim Assistant State Superintendent
Associate Directors, Special Education Services
Regional Accreditation Officers
Local School Board Presidents

**OKLAHOMA STATE DEPARTMENT OF EDUCATION
GUIDELINES
REGARDING OUT-OF-STATE RESIDENTIAL PLACEMENT**

Oklahoma's public school districts must offer children with disabilities a free appropriate public education in the least restrictive environment appropriate to their unique needs. A student's Individualized Education Program (IEP) team may determine that a child's educational needs cannot be met in a regular public school setting. In those situations, the IEP team must consider other settings in which to deliver the child's special education and related services, which may include an out-of-state residential placement. The documentation that a residential school placement is the least restrictive environment, thus removing the child from his/her home and community, must come only after certain considerations have been addressed. These considerations include:

- Has the student received a comprehensive evaluation utilizing tests or other materials selected and administered so as not to be discriminatory on a racial or cultural basis, provided and administered in the child's native language or other mode of communication, unless it is clearly feasible not to do so, using a variety of assessment tools and strategies to gather relevant functional and developmental information about the child, including information provided by the parent and information related to enabling the child to be involved in and progress in the general curriculum, to assist in determining whether a child is a child with a disability?

Notes:

- Has the student's IEP been developed with meaningful involvement of the student's parent(s) or guardian(s), teacher(s), the student (when appropriate), and included persons knowledgeable about the student, the meaning of the evaluation information and the continuum of alternative placement options?

Notes:

- Has the district ensured that due to the child's unique educational needs FAPE cannot be provided in less restrictive settings with the use of supplementary aids and services?

Notes:

- Has the district identified expected benefits from a residential placement in addressing the full range of the student's unique needs in the areas of academic or educational achievement and learning characteristics, social development, physical development and management needs?

Notes: _____

In addition, for students recommended for residential school placements, the IEP team must consider the following questions:

- Has the district informed the child's parent(s) about community support services that they may access for additional support?

Notes: _____

AND

- Has the district involved other agencies (e.g., DDSD) in the planning for a student who may be in need of a residential school placement?

Notes: _____

Once it is determined that the student requires placement in a residential school for FAPE, the IEP team must do the following:

- Identify a residential facility which can provide appropriate special education and related services necessary for FAPE in view of the child's disability and unique needs;

Notes: _____

- Secure the input and approval of the OSDE;

Notes:

- Assist the OSDE by providing information as necessary for the OSDE to contract with the educational residential facility.

Notes:

- Make application to appropriate educational residential programs; and

Notes:

- Complete the necessary forms, including a new or revised IEP, associated with the residential placement.

Notes:

To the extent that there is disagreement between the district and parent(s) regarding the need for or selection of the residential placement, the dispute shall be subject to the IDEA's procedural safeguards as with any other placement issues.