

Non-Public Special Education Allowable Fee Guidance Document

General Statement

One of the defining characteristics of FAPE is that it is “free” to the student and parents/guardians. Per 34 CFR 300.17(a), FAPE means special education and related services that “are provided at public expense, under public supervision and direction, and without charge.” Similarly, 34 CFR 300.39(a) provides “special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability,” which includes “instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings.”

34 CFR 300.39(b)(1) does clarify that “at no cost means that all specially-designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program.”

Per Part 401, “no public school district shall place any student in a special education program that is subject to the requirements of [Part 401]” unless “The Purchased Care Review Board has established the allowable costs for the program pursuant to Section 14-7.02 of the School Code.” 23 Ill. Adm. Code 401.110. Further, “Tuition charged to a public school district by a provider...shall not exceed the allowable costs approved pursuant to 89 Ill. Adm. Code 900 (Illinois Purchased Care Review Board).” 23 Ill. Adm. Code 401.280(a).

ISBE Guidance regarding the use of Assistive Technology – See Section E: Provision of Assistive Technology (<https://www.isbe.net/Documents/Assistive-Technology-FAQ.pdf>)

Illinois Assistive Technology Guidance Manual (<https://www.isbe.net/Documents/assist-tech-guidance-manual.pdf>) – See Page 35, Question re Repeatedly Damaged AT:

“Ultimately, when an IEP team determines that a student needs AT for purposes of achieving FAPE, the school or district is responsible for ensuring that the AT is provided, in working condition, when it is needed. If AT is damaged at school or in an environment other than school, it is the responsibility of the school or district to make repairs to the AT or provide the same or comparable AT to the student. Repeated damage does not in any way reduce the school’s or district’s burden to provide access to the needed AT. Schools and districts may apply policies and procedures to recover costs related to such repeated damage in much the same way that costs are recovered for other damaged school-owned materials and equipment. That said, a student’s or a family’s inability to pay for such damages does not remove the school’s or district’s responsibility of providing needed AT to a student.”

Nonpublic programs should not be charging district or parents/guardians additional fees above or beyond what is in their established rate. Any extra fees must be **optional** and not necessary for a student to participate in instruction; otherwise, the program should request a new rate from the IPCRB to include the additional fee(s).

Additional school fees to families of students placed in nonpublic special education programs are permitted so long as they are **optional** and indicated as such to families. This document provides information on fees that may be considered allowable and those that may be problematic and not allowable for purposes of guidance to member schools.

Non-Allowable Costs

Section 900.321 Non-Allowable Costs and Revenue Offsets

A). Non-allowable costs. The following shall be considered non-allowable or non-reimbursable costs:

- 1). Medical care provided by licensed physicians and therapy services provided by psychiatrists, except for their diagnostic or evaluation services and consultation to education staff; licensed dentists, except for diagnosis or evaluation and consultation to education staff; other health or medical personnel, including nurses, except as they are providing school health services, as defined in Section 900.310(e); and other medical personnel involved in the provision of ongoing medical care. Nursing services necessary to meet State child care licensing requirements are allowable.
- 2). Supplies used by the medical care personnel listed in subsection (a)(1) of this Section in carrying out activities that are not reimbursable.
- 3). Overhead costs incurred by the medical care personnel listed in subsection (a)(1) in the provision of services that are not reimbursable.
- 4). Expenses resulting from transactions with related organizations that are greater than the expense to the related organization.
 - A). Where the provider makes rent/lease payments to a related organization, as defined in Section 900.310(i), rent/lease expense is disallowed and the capital costs of the related organization must be used.
 - B). Interest expense paid to a related organization is disallowed. However, interest expense incurred by the related organization is allowable.
 - C). The cost of goods and services purchased from a related organization shall be allowable to the extent that the cost to the provider does not exceed the cost to the related organization.
 - D). Providers may be required to submit evidence to substantiate or refute any claim of relatedness in determining allowable costs.
 - E). Providers shall identify all transactions with related organizations in their annual filing of the cost report.
 - F). Allowable costs of related organizations shall be added to the provider's costs for the same cost centers for determination of reasonable cost standards applicable to the provider's costs.
- 5). Non-straight-line depreciation. (However, straight-line depreciation is an allowable cost.
- 6). Research cost, other than costs for program evaluation.

- 7). Bad debt.
- 8). Special benefits to owners, including owner and keyman life insurance, except insofar as required by lending institutions.
- 9). Compensation to non-working owners and non-working officers' salary.
- 10). Discounts, rebates, allowances and charity grants.
- 11). Entertainment expenses.
- 12). Fund raising.
- 13). Costs of production, including wages paid to students, incurred solely for the purpose of generating revenue from the sale of goods and services. Wages paid to students and other services approved by the State Board of Education for vocational training or educational arts and craft activities are allowable, even if they generate revenue.
- 14). Interest payments related to a provider's assets that are unrelated to a special education program.
- 15). Costs incurred by owners or boards of directors for non-program activities, including that portion of overhead that should be allocated to these activities.
- 16). Printing expenses not related to the program.
- 17). Travel, lodging, food and registration expenses to attend conferences, conventions, and meetings related to lobbying activities, association business, or entertainment. Costs to attend conferences and conventions held in-state, or within 50 miles of the state where the attendee is employed, are allowable under the following conditions:
 - A). The conference or convention is specifically related to special education, or the conference, convention or meeting was sponsored by the State.
 - B). Allowable conference and convention expenses shall be grouped under administrative costs and subject to the administrative ceiling, in accordance with Section 900.330(b)(1) of this Part.
 - C). Allowable employee development or training costs incurred to meet staff certification or licensure requirements of any State agency or other governmental unit may be reported under program costs.
- 18). Dues to national, State and parent organizations.
- 19). Scholarships or awards and grants to individuals.
- 20). Fees for professional, technical, social or other organizations unrelated to the program.

- 21). Nonclient transportation, including staff transportation to and from work. Program-related staff transportation is an allowable cost.
- 22). Meals provided to individuals who are not clients.
- 23). Interest on loans among intra-organizational funds.
- 24). Fines and penalties.
- 25). Mortgage and loan principal payments.
- 26). Contributions and donations by the provider.
- 27). Asset acquisition costs. (That is, for nonpublic providers, costs of items reported on the provider's books when those costs exceed \$10,000 for items having a life of one year or more. For public providers, costs of items reported on the public provider's books when those costs exceed the capitalization threshold established by the governing board of the public provider, or \$10,000, for items having a life of one year or more. Depreciation for these items is, however, an allowable expense.)
- 28). Contingencies.
- 29). Legal expenses incurred on behalf of clients for non-program activities or for litigation against governmental agencies.
- 30). Imputed value of goods and services.
- 31). Severance pay.
- 32). Sales tax for not-for-profit organizations.
- 33). Income tax.
- 34). Student transportation to and from the provider's program, as a responsibility of the placing school district, reimbursable under Section 14-13.01 of the School Code.
- 35). Clothing and allowances.
- 36). Costs of advertising for clients and public relations.

B). Private contributions and non-governmental revenues granted to a provider for improving or enhancing its program shall not be offset. The following sources of revenue shall be offset for a nonpublic provider:

- 1). Revenues from government-funded school breakfast and lunch programs must be offset against the cost of meals.

- 2). Revenues from the rental of portions of the provider's building must be offset against property costs.
- 3). Revenues from unrestricted investments must be offset against interest costs; revenues from unrestricted investments exceeding interest expenses need not be offset.
- 4). Revenues from local educational agencies for diagnostic services.
- 5). Revenues from workshop programs must be offset against the cost of those programs in whichever of the components listed in this subsection (b) they were reported.
- 6). Revenues for special education, related services, and room and board, insofar as any income not related to a specific client is received from any governmental state or federal agency.
- 7). A gain on a sale of an asset, in which the State has any monetary interest, shall be offset against the cost center in which the asset was reported.

A). The total offset taken shall not exceed the State's interest in the asset.

B). The offset shall not be applied against other cost centers unless an expense allocation has been made to more than one cost center.

C). An offset schedule shall be developed any time a single-year offset creates a financial difficulty for the provider. The length of an offset schedule shall not exceed the length of the original expense schedule (depreciation) as reported to the Board on the annual cost report or certified audit.

- 8). Fees paid by any governmental agency for specific client services in addition to the per diem cost approved by the Board, insofar as the fees are for services included in program costs reported to the Board. The Board may waive the offset if the provider stops charging these fees and there is documentation with respect to the necessity for specific client services from the State agency that is responsible for program approval or that purchases services from the provider.

C). The following sources of revenue shall be offset for a public provider:

- 1). Federal special education funding that is directly attributable to the program.
- 2). Special education personnel revenue computed in the Base Funding Minimum for fiscal year 2017, calculated under Section 18-8.15 of the School Code, and allocated to full-time licensed personnel, paraprofessionals endorsed pursuant to 23 Ill. Adm. Code 25.510, and other nonlicensed personnel.
- 3). Elementary and Secondary Education Act of 1965 (Titles IA/II/IV) funds used to support the program.

- 4). Medical assistance reimbursements received attributable to the allowable costs of the program.
- 5). Grants from local units of government attributable to the costs of the program.
- 6). Beginning with the rate calculated for the 2028-2029 school year, fees paid by any governmental agency to a special education cooperative or separate public special education day school in addition to the rate calculated and approved for the program pursuant to this Part, insofar as the fees are for services included in program costs reported to the Board. The Board may waive the offset if the provider stops charging these fees.
- 7). Any other State or federal funding that was received and used to support the program.
- 8). Beginning with the 2025-2026 school year, non-State and non-federal revenues used to fund program activities except fees or tuition charged to a school district and any funding received directly by the entity operating the program through a tax levy.

Regulations Related to Fiscal Provisions

Section 401.280 Fiscal Provisions

- A). Tuition charged to a public school district by a provider for the term specified in an individual student's State Board of Education 19-83 Nonpublic Facility Placement Contract shall not exceed the allowable costs approved pursuant to 89 Ill. Adm. Code 900 (Illinois Purchased Care Review Board).
- B). A status of "Nonapproved" shall be assigned to any program whose provider has not accepted the rate set by the Illinois Purchased Care Review Board pursuant to 89 Ill. Adm. Code 900 60 days after Illinois Purchased Care Review approval of the rates or within 60 days after SBE approval of the application, whichever occurs later.
- C). The tuition charge for all students with disabilities who, pursuant to the IEP, are served in a facility less than full-time shall be prorated according to the percentage of the time the students are actually served in the program.
- D). For placements on and after July 1, 2019, providers shall not engage in the following conduct:
 - 1). Pre-bill public school districts;
 - 2). Bill public school districts for services before those services have actually been provided; and
 - 3). Charge parents for special education and related services as outlined in the IEP, or room and board.
- E). A provider shall not be prohibited from contracting with any local public school district for individual student services, transportation, diagnosis and evaluation, or other services that have not yet been included in the determination of allowable costs set by the Illinois Purchased Care Review Board.

- 1). Contracts for any services shall be separate from individual placement agreements.
- 2). All costs and revenues resulting from contracts shall be included in the facility's rate calculations under Section 14-7.02 of the School Code.

89 Ill. Adm. Code 900.110(a)

This Part applies to the activities of the Illinois Purchased Care Review Board, established pursuant to Section 14-7.02 of the School Code [105 ILCS 5/14-7.02] in determining the allowable costs of, and payments to be made by school districts for, special education services provided to students with disabilities whose needs districts cannot meet in the programs they offer. The rates determined pursuant to this Part shall also apply to payments made by State agencies that are financially responsible for residential or educational services to school-aged individuals with disabilities.

Fee Related Scenarios

1. Can a nonpublic special education facility charge parents/guardians for school supply fees?

- If specific supplies are required by the program, that can be listed on the CFR and included in the program established rate, otherwise school supply fees should be optional.

Per 89 ILL. Adm. Code 900.322 (a) 1: Salaries, wages and fringe benefits for qualified staff and fees for consultants involved in the direct planning and delivery of classroom educational services, including teachers, teacher aides, and the supplies and overhead costs necessary to carry out these activities.

2. Can fees be charged for students to attend field trips?

- **Instructional** - if attending the field trip is required for the course work, cost should be covered by program.
- **Incentive Behavioral** - Cost of these trips should be covered by program.
- **Transitional Life Skills Outings** - Do not count as field trips and are part of the instructional day.

3. If a nonpublic special education facility is hosting a book fair where books can be purchased, can a list of books and teacher's wish lists be sent home?

- Yes, information related to the book fair and teacher's wish lists can be sent home. This is an optional cost for parents who want to purchase books. As such, communication with parents/ guardians should indicate this is not a required cost.

4. If the nonpublic special education facility is holding a service-learning fundraiser and/or participating in a Giving Campaign, can information be sent home?

- Yes, the information related to service-learning fundraisers can be sent home as an informational document. This is an optional cost for parents who want to participate. As such, communication with parents/ guardians should indicate this is not a required cost.
- Per Section 900.321(a)(12) Non-Allowable Costs and Revenue Offsets:
 - A). Non-allowable costs. The following shall be considered non-allowable or non-reimbursable costs:

1). Fundraising.

5. If a nonpublic special education facility is selling yearbooks or having pictures taken can information be sent home?

- Yes, the information related to yearbooks and school pictures can be sent home as an informational document. This is considered an optional cost for parents who want to participate. As such, communication with parents/ guardians should indicate this is not a required cost.

6. Can fees be charged for school lunches?

- Any fees charged for school lunches must be outside of any lunches that are provided through the Illinois Free Meal Programs.
- If the nonpublic special education facility is offering an optional lunch or items, such as ala cart items, this is allowable due to it being optional for parents to allow students to purchase items.

7. Can fees be charges to the parent or guardian for the replacement or repair of school devices?

- Devices needed to access the curriculum as listed on the IEP are required to be provided at no cost. It is the responsibility of the LEA to ensure such devices are made available. Additional guidance from ISBE regarding costs associated with assistive technology (AT) can be found above.

8. Can a teacher provide parent/guardians with an Amazon or other related wish lists?

- Yes, this can be provided to parents/guardians. This is considered an optional fee for parents who want to purchase items off of the wish list. As such, communication with parents/ guardians should indicate this is not a required cost.