



Special Education Department

**Residential Placements:
Guidance and Frequently Asked
Questions**

This document is intended to provide non-regulatory guidance on the subject matter listed above. For specific questions, please contact the Illinois State Board of Education.

Dr. Tony Sanders, State Superintendent

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Residential Placements: Guidance and Frequently Asked Questions

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Introduction

Public Acts [95-0844](#), effective August 15, 2008, and [95-0938](#), effective August 29, 2008, clarified responsibility for payment of educational services provided to students placed in residential facilities. Additional changes were necessary when President Barack Obama signed the Every Student Succeeds Act (ESSA) in December 2015, which reauthorized the Elementary and Secondary Education Act (ESEA) of 1965 and built on previous legislative successes by instituting new protections for children in foster care. These provisions took effect on December 10, 2016, and complement those in the Fostering Connections Act. The provisions require State Education Agencies (SEAs) and Local Education Agencies (LEAs) to work with state child welfare agencies to ensure the educational stability of youth in foster care.

This document builds upon the original guidance issued by the Illinois State Board of Education (ISBE) in January 2009 regarding district responsibilities when student residential placements are made or paid for by the Illinois Department of Children and Family Services (DCFS), the Illinois Department of Healthcare and Family Services, the Illinois Department of Human Services, or any court in Illinois.

A public school district in Illinois may only place a student eligible for special education services into a residential facility if that placement is determined to be the least restrictive environment for the student by the student's Individualized Education Program (IEP) team. Separately, students with or without IEPs may be placed in residential facilities by a parent or guardian, state agency, or the court system. The residential facilities may be located in state or out of state and be approved by ISBE as a private special education facility eligible to contract with Illinois public school districts to serve students with disabilities under Section 14-7.02 of the School Code, as well as non ISBE-approved. Reimbursement for educational services associated with placement in a residential facility is dependent upon varying factors, including the placing entity.

DCFS is the primary state agency in Illinois charged with the oversight and placement of youth in foster care. Consistent with the Fostering Connections Act, "foster care" means 24-hour substitute care for children placed away from their parents or guardians and for whom the child welfare agency has placement and care responsibility. This includes, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, childcare institutions, and pre-adoptive homes. A child is in foster care in accordance with this definition regardless of whether the foster care facility is licensed; payments are made by the state, tribal, or local agency for the care of the child; adoption subsidy payments are being made prior to the finalization of an adoption; or whether there is federal matching of any payments that are made. See 45 CFR 1355.20(a).

The purpose of this guidance document is to provide general information regarding a district's responsibilities in various situations when students are placed in residential programs. This document is not intended to provide regulatory or legal guidance but rather is this agency's interpretation of relevant statutes and applicable requirements. Districts should consult with their own legal counsel for legal advice and guidance based on the specific circumstances when a student is placed in residential facility.

Students who are temporarily placed in a facility for the purposes of psychiatric rehabilitation are not considered residential placements and rather should be considered under Section 14-13.01(a) of the School Code, which indicates what services are to be provided when a homebound or hospitalized student is unable to attend school due to a condition certified by a medical statement of need. ISBE's Wellness Department has issued a [Home/Hospital Instruction Q&A](#) to guide school districts through their responsibilities in these cases.

A. Residential Placement of Students Not Eligible for Special Education:

Legal Citations

Citation A1: [Section 10-20.12a\(b\)](#) - Tuition for nonresident pupils

Analysis: Section 10-20.12a(b) requires that, unless otherwise agreed to by the parties involved and where the educational services are not otherwise provided for, educational services provided to all Illinois students under the age of 21 in residential facilities, who are not eligible for services pursuant to Article 14 of the School Code, be provided by the district in which the facility is located. Costs are to be paid for by the district of the student's residence. For purposes of the Section, student residence is determined in accordance with Section 10-20.12b of the School Code.

Citation A2: [Section 10-20.12b\(b\)](#) - Residency, payment of tuition, criminal penalty

Analysis: Section 10-20.12b(b) delineates that when the DCFS guardian administrator has been appointed temporary custodian or guardian of a child, the child shall not be charged tuition as a nonresident student if the child was placed by DCFS with either a foster parent or placed in a childcare facility in a school district other than the child's former school district. If, however, it is determined by DCFS to be in the child's best interest to maintain attendance at their former school district, the child shall not be charged nonresident fees by the former residential district.

Citation A3: [42 USC 11432\(g\)\(3\)\(I\)\(i\)](#) - School of origin

Analysis: The school of origin is the school that a child or youth attended when permanently housed or last enrolled, including a preschool, as defined by the McKinney-Vento Homeless Assistance Act. Furthermore, DCFS uses this term to indicate the school in which a child is enrolled at the time of placement in foster care.

When a child loses permanent housing and becomes a homeless person within the meaning of 105 ILCS 45/1-5 or when a homeless child changes their temporary living arrangements, the parents or guardians of the homeless child shall have the option of (1) continuing the child's education in the school of origin for as long as the child remains homeless or, if the child becomes permanently housed, until the end of the academic year during which the housing is acquired; or (2) enrolling the child in any school that non-homeless students, of whom live in the same attendance area in which the child lives, are eligible to attend [Education of Homeless Children Act Section 1-10].

ISBE and districts should partner to ensure that a child in foster care enrolls or remains in their school of origin, unless a determination is made that it is not in the child's best interest based on multiple factors such as appropriateness of the current educational setting and proximity to the school where the child is enrolled [20 USC 6311 (g)(1)(E)(i)]. If a child's foster care placement changes, the school of origin would then be considered the school in which the child is enrolled at the time of the placement change. Please refer to the federal non-regulatory guidance [Ensuring Educational Stability for Children in Foster Care](#) for the factors that should be considered in making determination of a student's best interest.

This service and funding structure applies to all students under the age of 21 who **are not** eligible for special education services under Article 14 of the School Code, irrespective of whether they were placed into a residential facility by an Illinois public agency or a court.

Note: As emphasized further in the FAQ B2 on page 12, the school district of the student's residence will not be responsible for educational costs for a student if the student was unilaterally placed in a residential facility by their parent or guardian.

It is specified in [105 ILCS 5/10-20.12a\(b\)](#) that any person or entity, including a school district or residential facility, may request a written residency decision from the state superintendent of education in the event

of a dispute regarding the district of residence of a given student. The state superintendent of education shall review material submitted and issue a written decision as to which district is the district of residence. The decision of the state superintendent of education is final. To request a formal residency decision from the state superintendent of education, the request and materials should be addressed to:

Superintendent, Illinois State Board of Education
100 North 1st Street
Springfield, Illinois 62777

Citation A4: [20 USC 6311\(g\)\(1\)\(E\)](#) - State plans, other plan provisions

Analysis: ESSA included significant amendments to Title I, Part A designed to provide school stability and immediate enrollment to children in foster care. Implementation of these provisions is not part of the McKinney-Vento Homeless Assistance Act (42 USC 11431 et seq.), as ESSA amended the McKinney-Vento Homeless Assistance Act to remove children and youth "awaiting foster care placement" from the definition of homeless.

The state plan must describe the steps an SEA will collaboratively take to ensure the educational stability of youth in foster care, according to 20 USC 6311(g)(1)(E).

This includes assurances that any youth enrolls or remains in their school of origin, unless a determination is made that it is not in their best interest to attend the school of origin. This decision must be based on all factors relating to the youth's best interest, such as appropriateness of the educational setting and proximity.

If a best interest determination identifies that it is not in a youth's best interest to remain in their school of origin, they must be immediately enrolled in a new school. This process may not be negatively impacted if the youth is unable to provide records as normally required for enrollment. The enrolling school must immediately contact the last school the youth attended to obtain records.

B. Residential Placement of Students Not Eligible for Special Education: **General Questions**

Question B1: To what placements do the provisions of Section 10-20.12a(b) apply?

Answer: The provisions of Section 10-20.12a(b) apply to all residential facility placements for Illinois students under the age of 21 who are not eligible for special education services under Article 14 of the School Code. This includes students who have a Section 504 Plan, as students who are only eligible for accommodations and/or modifications through a 504 Plan are not eligible for special education services under Article 14 of the School Code.

Note: The provisions of Section 10-20.12a(b) do not apply to students placed by their parents or guardians in a residential facility. Please see **Question B2.**

Example: A student who is not eligible for special education services and is a resident of District A is placed by a court or agency in a facility designed to treat mental health conditions located in District B. District B will be responsible for the provision of educational services during the student's placement at the facility; however, District A will be responsible for payments to District B equal to the costs of providing those educational services. In other words, the serving district must provide appropriate educational services to non-special education students and the students' district of residence must pay for those services.

Question B2: Do the provisions of Section 10-20.12a(b) apply to students placed by their parents or guardians in a residential facility?

Answer: No, parental placements in residential facilities are not covered by this Section. A local district or facility may provide educational services to students at the parent or guardian's expense. The school district of residence will not be required to assume financial responsibility for educational service costs associated with such a placement made by a parent or guardian.

Question B3: What is a placement "made by a parent or guardian"?

Answer: A placement is considered made by a parent or guardian if the parent or guardian initiates, enrolls in, and is responsible for payment for the

placement (e.g., private pay, private insurance, Medicaid insurance) without another state agency's funding.

Question B4: What is a placement “made by any court in this state” or “made or paid for by an Illinois public state agency”?

Answer: Section 10-20.12a(b) applies to both placements made by any court in this state or made or paid for by an Illinois public state agency. Placements are made by a court when the condition of the probation order, court mandate, or recommendation by judge states that the student is required to attend residential treatment. In these cases, the parent or guardian does not fund the placement.

A placement is made or paid for by an Illinois public state agency when funding is derived from, or flows through, that agency.

Question B5: What type of proof is necessary to document a placement made by a court or made or paid for by a state agency?

Answer: Generally, a court order is sufficient proof to document a placement made by a court. If a copy of the court order cannot be provided to a school district, the district must accept other forms of proof that a student has been placed by a court into treatment. Other forms of proof may include, but are not limited to:

1. Probation reports documenting the placement was made by a court;
 2. Affidavits from an involved attorney, probation officer, serving facility director, or caseworker involved in the minor's court case indicating that treatment in the facility made by a court in this state; or
 3. Proof from the treatment facility that payment of treatment was made by a state agency.
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Question B6: Is state funding available for school districts of residence that are responsible for educational costs of general education students under Section 10-20.12a(b)?

Answer: Yes, in an instance where a general education student has a residential placement facilitated by the Illinois Department of Healthcare and Family

Services through the Family Support Program in which the parent maintains guardianship, the resident district (i.e., the district where the parent or guardian lives) may enroll and include the student as part of the district's total enrollment for the Evidence-Based Funding (EBF) formula in accordance with Section 18-8.15. Payments shall be made by the school district of residence and shall be made to the district wherein the facility is located no less than once per month, unless otherwise agreed to by the parties.

If DCFS or an Illinois court has guardianship of a student who is not eligible for special education services and the student is placed in any home for orphans or placed in any organization or association that serves dependent, abandoned, or maladjusted children, and the student is attending a school maintained by the district, the district where the student is placed and served may claim full tuition reimbursement based on the student's average daily attendance multiplied by 1.2 of the resident district Per Capita Tuition Charge (PCTC), under Section 18-3 of the School Code. Excess costs not covered by the weighted formula are recouped via a separate excess cost claim.

Example: DCFS assumes guardianship of a student who is not eligible for special education services and places him or her in a licensed child welfare agency or youth home that provides residential and community-based services. The cost for the educational services provided to the student by the district where the organization is located is reimbursed under the provisions of Section 18-3.

Note: In juvenile delinquency cases, adjudicated minors may be made "youth in care." Being made a youth in care of the court does not necessarily affect guardianship. In this context, students made youth in care of the court are NOT eligible for reimbursement under Section 18-3.

Question B7: Can school districts of residence make payments to third parties providing educational services on behalf of school districts in which a residential facility is located?

Answer: School districts in which residential facilities are located can contract with third parties to provide educational services to a student placed at a residential facility.

A school district of residence is not required to make payments to third parties providing educational services on behalf of the school district in which the facility is located, but the resident district may agree to do so.

Section 10-20.12a(b) states, in relevant part: "Payments shall be made by the district of the student's residence and shall be made to the district wherein the facility is located no less than once per month unless otherwise agreed to by the parties." The school district of residence must pay for the educational services provided to their student(s) and may make these payments directly to the third party. The fact that a third party is providing educational services on behalf of the district in which the residential facility is located does not relieve the school district of residence from its obligations under this Section.

Question B8: If a state agency requests an evaluation of a student placed in a residential facility by a court or state agency who currently is not eligible for special education services, who is responsible for determining if an evaluation is warranted, and if it is, conducting the evaluation?

Answer: The school district of residence is responsible for conducting the requested evaluation. Each school district is responsible for identifying all students within the district who may be eligible for special education and related services and determining if an evaluation is necessary. The residence of the person who has legal custody of the student is considered to be the residence of the student. See 105 ILCS 5/10-20.12b. If an evaluation is not conducted, the school district of residence could be in violation of the Individuals with Disabilities Education Act (IDEA).

Question B9: Must a student be enrolled or attending school in the school district of residence immediately prior to the residential placement in order to trigger resident district responsibility?

Answer: No, the residence of the student should be determined in accordance with Section 10-20.12b(a) and responsibility follows regardless of whether the student was enrolled and/or attending immediately prior to the residential placement. This applies to students who may have dropped out of school or for students who were previously attending a nonpublic school.

Example: During sophomore year, a drug-dependent student runs away from home in District A and fails to enroll for the beginning of junior year. As a result, the student does not appear on the district's attendance rolls. The student is subsequently detained and ordered to a drug dependency rehabilitation facility located in District B by an Illinois juvenile court. The student's parent maintains residence in District A. District B will be responsible for the provision of educational services during the student's

placement. District A will be responsible for payments to District B equal to the costs of providing those services.

Question B10: When can a party request a residency determination from the state superintendent for a student not eligible for special education?

Answer: Under 105 ILCS 5/10-20.12a, any person or entity, including without limitation a school district or residential facility, may make a written request for a residency decision to the state superintendent of education, who, upon review of materials submitted and any other items or information they may request for submission, shall issue their decision in writing. The decision of the state superintendent of education is final.

To request a formal residency decision from the state superintendent of education, the request and materials should be addressed to:

Superintendent, Illinois State Board of Education
100 North 1st Street
Springfield, Illinois 62777

C. Residential Placement of Students Eligible for Special Education: **Legal Citations**

Citation C1: [Section 14-1.11b](#) – Resident district, applicability

Analysis: Section 14-1.11b states that Sections 14-1.11 and 14-1.11a shall be used to determine the resident district in all cases where special education services and facilities are provided.

Citation C2: [Section 14-1.11](#) - Resident district, parent, legal guardian

Analysis: Section 14-1.11 states that in instances where (1) the parent has legal guardianship of the student and resides within Illinois; or (2) an individual guardian has been appointed by the courts and resides within Illinois; or (3) an **Illinois public agency** has **legal guardianship** and the student resides either in the home of the parent or within the same district as the parent; or (4) a student, whose parent/guardian retains legal rights or guardianship, has been placed residentially by an Illinois court, then the

resident district is the school district where the parent or guardian resides unless there has been a judicial termination of parental rights.

Citation C3: [Section 14-1.11a](#) - Resident district, student

Analysis: Section 14-1.11a states that the resident district is the school district where the student resides in instances where (1) the parent has legal guardianship but the location of the parent is unknown; or (2) an individual guardian has been appointed but the location of the guardian is unknown; or (3) the student is 18 years of age or older and no legal guardian has been appointed; or (4) the student is legally an emancipated minor; or (5) an **Illinois public agency** has **legal guardianship** of a student and that agency or any Illinois court has placed the student residentially outside of the school district where the parent lives.

Citation C4: [Section 14-7.03](#) - Special education classes for children from orphanages, foster family homes, children's homes, or state residential units

Analysis: Section 14-7.03 provides that, (1) If a school district maintains special education classes on the site of orphanages and children's homes, or (2) if children from orphanages, children's homes, foster family homes, other State agencies, or State residential units for children attend classes for students with disabilities in which the school district is a participating member of a joint agreement, or (3) if the children from the orphanages, children's homes, foster family homes, other state agencies, or state residential units attend classes for students with disabilities maintained by the school district, then reimbursement shall be paid by the comptroller to eligible districts in accordance with the provisions of Section 14-7.03.

A student who is not a resident of Illinois who is placed in a child welfare institution, private facility, foster family home, state-operated program, orphanage, or children's home shall have the payment for educational tuition and any related services assured by the placing agent.

For a student with a disability who is placed in a residential facility by Illinois public agencies or courts, the district of residence as determined by Section 14-1.11a is responsible for the actual costs of the student's special education program and can apply for reimbursement from the state according to the terms of this Section.

Citation C5: [Section 14-7.05](#) - Placement in residential facility, payment of educational costs

Analysis: Section 14-7.05 provides that for students with disabilities placed by an Illinois public agency or court, the district of residence and the determination of financial responsibility for educational services provided will be decided according to the requirements of Article 14 of the School Code. For placements made in residential facilities approved under Section 14-7.02, the district of residence's financial responsibility, as well as reimbursement, are to be calculated in accordance with the formula established by Section 14-7.02.

Subject to the requirements set out in Section 14-7.05, provisions regarding financial responsibility for public agency and court placements apply for both facilities approved by ISBE in accordance with the requirements of Part 401 (23 Ill. Adm. Code [IAC] 401 et seq.) and those facilities that are not approved in accordance with Part 401. Pursuant to 23 IAC 405.40, facilities that are not approved in accordance with Part 401 are required to submit an application for satisfactory proof as a prerequisite to a district's payment of the cost of educating the affected student for each student placed in the facility by an Illinois public state agency or any court in Illinois no later than 15 days after the placement has been made.

This Section further provides that Illinois placing agencies or courts are responsible for notifying resident districts prior to the placement of a student, except in emergency situations. Residential facilities are required to notify the district of residence as soon as possible after the placement of a new student made or funded by an Illinois state agency or court. The placing agency or parent shall request an IEP meeting from the resident district if the placement would entail additional educational services beyond the student's current IEP. The district of residence shall retain control of the IEP process, and any changes to the IEP must be done in compliance with the federal IDEA.

As set out in 14-7.05, "[A] school district is under no obligation to pay such a residential facility unless and until such proof is provided to the State Board's satisfaction." As a result, if satisfactory proof is provided after the applicable timeframes outlined in this guidance memorandum, a school district would still be financially liable for funding the student from the date notice was received. See 23 Ill. Adm. Code 405.30(e).

Further, if satisfactory proof is not provided to the State Board's satisfaction, a district remains under no obligation to pay such a residential facility.

D. Residential Placement of Students Eligible for Special Education:

General Questions

Question D1: What is the school district of residence for a student who is 18 years old or older and a legal guardian has not been appointed?

Answer: Under Section 14-1.11a, the school district of residence is the school district where the student resides. For students in residential placements, this means that upon turning 18 the school district of residence may transfer the student to the school district where the residential program is located. If the student is homeless, then the school district of residence is the district in which the student enrolls for educational services.

When a student who is eligible for special education services reaches age of majority at 18 years, all parental rights under Article 14 transfer to the student, except as provided in [105 ILCS 5/14-6.10](#).

Accordingly, per 105 ILCS 5/14-6.10(b), school districts are required to notify the student and the student's parents of the transfer of rights at an IEP meeting during the school year in which the student turns 17.

Question D2: If the least restrictive environment (LRE) for a student eligible for special education services is determined to be an approved residential facility as the result of a decision made by the student's resident district IEP team, is the resident district responsible for residential and educational costs?

Answer: Yes. For placements made in residential facilities approved under Section 14-7.02, the district of residence's financial responsibility, as well as reimbursement, are to be calculated in accordance with the formula established by Section 14-7.02. When the resident district's IEP team of an Illinois student, whose guardian is not a public agency, determines that the LRE for the student is an approved private residential placement for educational reasons, ISBE Form 34-37, "Application for Approval of Private Residential Placement Room and Board Reimbursement," must be completed and submitted to ISBE at 3437RnB@isbe.net in a timely manner to allow approval **prior** to the district initiating the placement.

Upon receipt of approval from ISBE for reimbursement of the student's placement, the district must enter the student into the IEP-Student Tracking and Reporting system and enact ISBE Form 19-83, "Nonpublic Facility Placement Contract," with the approved private facility to complete the approval process.

Question D3: What are the funding implications for a student placed in a private residential facility who reaches the age of 22 while placed?

Answer: ISBE and LEAs may only expend IDEA Part B funds in accordance with the applicable provisions of 34 CFR Part 300, which apply only to students inclusive of age 21. Thus, IDEA funds cannot be used to provide services beyond the age of 21.

IEP teams should plan for appropriate transition of youth turning age 22 to ensure appropriate educational services continue to be provided if their current residential placement is no longer an option. The school district is required to provide a free and appropriate public education (FAPE) as long as the student remains eligible.

Question D4: If a student is parentally placed in a residential facility and is sent to a public school program for special education services, who is responsible for the cost of educational services?

Answer: If a student's resident district made FAPE available to the student but the parent declines the educational services and unilaterally places their student in a residential facility, then the special education services provided to the student by another public school program are the financial responsibility of the parent, in addition to the residential costs, and not the responsibility of the resident district. Parents may pursue reimbursement if the resident district's offer of FAPE is at issue, according to 34 CFR 300.148.

Question D5: If a student eligible for special education services is parentally placed in a residential facility and, consistent with the student's educational needs, is provided special education services at the residential facility, who is responsible for the costs of educational services?

Answer: If a parent unilaterally places their student in a residential facility, special education services provided to the student by the residential educational

facility are the financial responsibility of the parent, in addition to the residential costs. In such an instance, if a student's resident district made FAPE available to the student, the school district of residence of the student is not required to accept financial responsibility for educational or residential service costs of the unilateral placement. However, if FAPE was not made available to the student, a school district may be held financially responsible for the unilateral placement by the parent. See 34 CFR 300.148.

Question D6: When can a party request a residency determination from the state superintendent for a student eligible for special education?

Answer: When a dispute arises over the determination of the district of residence under 105 ILCS 5/14-7.03, the district or districts may appeal the decision in writing to the state superintendent of education, who, upon review of materials submitted and any other items or information they may request for submission, shall issue a written decision on the matter. The decision of the state superintendent of Education shall be final.

When a dispute arises over the determination of the district of residence under 105 ILCS 5/14-7.05, any person or entity, including without limitation a school district or residential facility, may make a written request for a residency decision to the state superintendent of education, who, upon review of materials submitted and any other items of information they may request for submission, shall issue their decision in writing. The decision of the state superintendent of education is final.

To request a formal residency decision from the state superintendent of education, the request and materials should be addressed to:

Superintendent, Illinois State Board of Education
100 North 1st Street
Springfield, Illinois 62777

E. Residential Placement of Students Eligible for Special Education:
Questions Specific to DCFS Youth in Care

Question E1: Which district is responsible for making the best interest determination in collaboration with DCFS when a youth in care who is eligible for special education services is placed in a licensed residential facility outside the school district the child previously attended?

Answer: The district of the school of origin for the youth in care is responsible. The “school of origin” is a term of art used by DCFS and is defined by the McKinney-Vento Homeless Assistance Act as, “The school that a child or youth attended when permanently housed or the school in which the child or youth was last enrolled.” See 42 USC 11432(g)(3)(l)(i). If it is determined to be in the student’s best interest, the student has the right to remain with the school of origin for the duration of their time in the residential facility. See 20 USC 6311(g)(1)(E).

Question E2: If DCFS decides to keep a student in their school of origin, does the school district where the student now resides have to reimburse the school district where the child currently attends for educational services? What about any additional transportation costs that may be incurred?

Answer: No, if it is determined that a student’s best interest is to remain in their school of origin and the DCFS residential placement is due to issues regarding the student’s health and welfare, the resident district does not change. The school of origin should continue to serve, fulfill the student’s IEP, and claim reimbursement for educational costs accordingly under the Special Education Orphanage Act per Section 14-7.03 in this circumstance.

If a student is placed in a residential setting in another school district and it is determined that a student’s best interest is to enroll outside of the school district they previously attended, then the new district must provide the student with FAPE.

Transportation costs should not be considered when determining a student’s best interest to remain in their school of origin. To facilitate transportation for these students, districts must ensure (in collaboration with ISBE and DCFS) that transportation for children in foster care is provided, arranged, and funded.

Districts that incur additional transportation costs for transporting DCFS youth in care students to their schools of origin are eligible for reimbursement up to 50 percent of their actual costs by DCFS. The other 50 percent is claimable as regular transportation expenditures. Title I funds can be considered, but funds reserved for comparable services for homeless children and youth may not be used for transportation.

Note: Unless the student’s existing IEP required specialized transportation, the DCFS placement does not automatically qualify additional

transportation costs as fully reimbursable under Section 14-7.03; however, if the student's IEP included specialized transportation, the district will not submit an invoice to DCFS for 50 percent of the additional transportation cost and may claim the full amount on the Section 14-7.03 Special Education Orphanage claim.

Question E3: What if the student's IEP team in the resident district decides the LRE of the special education student should be the school district of residence under IDEA, but DCFS decides the placement of the special education youth in care student should be the school district in which the child is currently attending under the Fostering Connections Act? Whose decision controls?

Answer: The IEP team in the resident district may decide that the LRE of the special education student should be the school district of residence under IDEA. However, DCFS may think the placement of the special education youth in care student should be the school district which the child is currently attending under the Fostering Connections Act.

DCFS, ISBE, and district staff each bring valuable perspectives to the best interest determination. Recognizing this, both the Fostering Connections Act and Title I require coordination among agencies at the state and local levels to ensure the educational stability of youth in foster care.

Given these coordination requirements, the relevant agencies should make every effort to reach an agreement regarding the appropriate school placement of youth in foster care, including those placed in residential facilities. However, if there is disagreement regarding school placement for a youth in foster care, DCFS is considered the final decision maker in making the best interest determination. DCFS is uniquely positioned to assess vital non-educational factors, such as safety, sibling placements, the child's permanency goal, and other components of the youth in care's case plan. DCFS also has the authority, capacity, and responsibility to collaborate with and gain information from multiple parties, including parents, children, schools, and the court, in making these decisions.

Question E4: If a DCFS youth in care who is eligible for special education services is placed in a residential facility by DCFS and DCFS has legal guardianship, which school district is responsible for educational service costs? Under what Section of the School Code should that district apply for reimbursement?

Answer: Under Section 14-1.11a(5), the resident district is the district in which the student resides, and that school district is responsible for educational service costs. The resident district may request reimbursement under Section 14-7.03.

Example: DCFS has legal guardianship of a student who has been identified as eligible for special education services under Article 14 of the School Code. The student's parent lives in District A. Based on the student's mental health needs, DCFS places the student in a private residential facility in District B. Per Section 14-1.11a(5), District B is the student's district of residence and will be responsible for educational service costs. District B may then apply for reimbursement under Section 14-7.03 of the School Code.

Pursuant to Section 14-1.11a, if the student is placed outside of Illinois, the last school district that provided at least 45 days of educational service to the student is considered the district of residence until the student is no longer under the guardianship of DCFS or until the student is returned to Illinois. The resident district is responsible for educational service costs and may request reimbursement under Section 14-7.03.

Question E5: If a special education student residentially placed by a state agency is labeled as "AWOL" and their whereabouts are unknown, what is the district's responsibility to pay for educational services?

Answer: The district is under no obligation to pay for special education services that were not provided to the youth during the time their whereabouts were unknown.

F. Residential Placement of Students Eligible for Special Education: **Questions Specific to Youth Experiencing Homelessness**

Question F1: Who is responsible for making the best interest determination when a youth who is eligible for special education services and experiencing homelessness as defined by the McKinney-Vento Homeless Assistance Act is placed in a licensed residential facility outside the school district the child previously attended?

Answer: In Illinois, the parent/guardian or caregiver has the option of continuing the youth's education in the school of origin. See 105 ILCS 45/1-10. If the parent/guardian chooses to have the youth attend the school of origin, that parent/guardian, a teacher of the youth, and the principal or their designee from the school of origin may meet to evaluate whether that travel is in the best interest of the child's development and education. See 105 ILCS 45/1-15. The "school of origin" is a term of art defined by the McKinney-Vento Homeless Assistance Act as, "The school that a child or youth attended when permanently housed or the school in which the child or youth was last enrolled." See 42 USC 11432(g)(3)(I)(i).

Question F2: If the school of origin and school of residence of a youth eligible for special education services who is experiencing homelessness are involved in a dispute concerning providing transportation, which district is responsible?

Answer: If the student is eligible under the McKinney-Vento Act and it is determined that it is in the student's best interest to remain in their school of origin, the student is entitled to necessary transportation to the school of origin and other protections. In the event the school of origin and school of residence of a youth eligible for special education services who is experiencing homelessness are involved in a dispute concerning providing transportation, the two districts must equally split the cost of providing transportation to the youth. See 42 USC 11432(g)(1)(J)(iii)(II). A youth eligible for special education services who is experiencing homelessness must be provided transportation during any disagreement of districts regarding cost, as would normally be provided.

If the residential facility where the youth eligible for special education services who is experiencing homelessness is placed is located outside of Illinois, transportation must be provided because the McKinney-Vento Homeless Assistance Act is a federal law and supersedes state and local

laws when there is a conflict. The residential facility, school of origin, and/or school of residence are encouraged to contact the state coordinator established pursuant to 42 USC 11432(d)(3) for consultation in instances of dispute.

G. Residential Placement of Students Eligible for Special Education: **Questions Specific to Youths Placed by Courts or Other State Agencies**

Question G1: If a student eligible for special education services is placed in a residential facility by a state agency or by a court in Illinois and there is a dispute regarding residency, can a district request a residency determination?

Answer: Yes, when a dispute arises over the determination of the district of residence under Section 14-7.05, any person or entity, including without limitation a school district or residential facility, may make a written request for a residency decision to the state superintendent of education who, upon review of materials submitted and any other items of information they may request for submission, shall issue a decision in writing. The decision of the state superintendent of education is final. To request a formal residency decision from the state superintendent of education, the request and materials should be addressed to:

Superintendent, Illinois State Board of Education
100 North 1st Street
Springfield, Illinois 62777.

Question G2: Is the school district of residence still responsible for educational service costs for a student eligible for special education services placed at a non-approved residential facility by an Illinois state agency or court if the placing agency or court does not give the district notice prior to the placement?

Answer: Yes, however, this depends on receipt of additional documentation. The language of Section 14-7.05 specifically states that failure to receive written notice from the placing agency or court before the placement does not absolve the district of residence of financial responsibility; however, a school district is not responsible for educational service costs until the district receives notification from the state superintendent that satisfactory proof has been obtained by the residential facility. If the district received notification from the state superintendent that

satisfactory proof has been provided, then the district's responsibility for payment begins with the date notice was received. See 23 IAC 405.30(e).

See Question G1 if there is a dispute over the determination of the district of residence under Section 14-7.05.

Example: A student who has been determined eligible for special education services under Article 14 of the School Code is found delinquent in a juvenile court proceeding and placed by court order in a residential facility designed to rehabilitate juvenile offenders that is not an approved ISBE facility. The juvenile court does not provide written notification to the school district of residence of the placement; therefore, the district of residence is not responsible for educational costs unless and until the school district of residence receives notification from the state superintendent that the residential facility provided satisfactory proof. Upon receipt of such notification, the district of residence then becomes responsible for educational costs from the date of notice of student enrollment.

Question G3: If a student eligible for special education services is placed in a residential facility by a state agency and there is a dispute regarding whether the student's educational placement is the LRE, whose decision controls?

Answer: State agencies, the IEP team of the resident district, and the residential facility should make every effort to reach an agreement regarding the appropriate educational placement of the student. However, if there is disagreement regarding educational placement for the student, then the IEP team of the resident district is considered the decision maker regarding an LRE determination. The resident district retains control of the IEP process and is responsible for ensuring that the student is receiving educational services in the LRE.

Question G4: Is the resident district responsible for educational service costs in the instance of an agency or court placement in a residential facility that has not been approved under 23 IAC 401, et seq.?

Answer: It depends. In order for educational service cost responsibility and reimbursement to attach, a non-approved residential facility must be able to demonstrate that it meets the minimum standards articulated in Section 14-7.05:

“A residential facility providing educational services within the facility, but not approved by the State Board of Education, is required to demonstrate proof to the State Board of (i) appropriate certification of teachers for the student population, (ii) age-appropriate curriculum, (iii) enrollment and attendance data, and (iv) the ability to implement the child’s IEP” (105 ILCS 5/14-7.05).

The non-approved residential facility must contact ISBE’s Special Education Department to obtain an application under Section 14-7.05 of the School Code within 15 days of notice of an affected student’s placement. Upon completion of the application, inclusive of required components as outlined at 23 IAC 405.40, the non-approved residential facility must submit the application back to ISBE in order to demonstrate the standards in Section 14-7.05. ISBE will not provide reimbursement for non-approved placements that do not meet the standards outlined in regulation through demonstration of satisfactory proof.

If satisfactory proof has been furnished as required by Section 14-7.05 following review of the materials submitted, the resident district will become responsible for the educational cost of the agency or court placement from the date of notice of the placement.

Question G5: Is a school district of residence that is located outside of Illinois responsible for the educational service costs associated with an agency placement in an Illinois residential facility?

Answer: No, according to Section 14-1.11, when the parent has guardianship and lives outside Illinois or when a legal guardian other than the natural parent lives outside Illinois, then the parent, legal guardian, or other placing agent “is responsible for making arrangements to pay the Illinois school district serving the child for the educational services provided.”

The educational service costs are determined in accordance with Section 14-7.01.

Question G6: Following receipt of notification of satisfactory proof of approval under Section 14-7.05 of the Illinois School Code from the state superintendent, is a school district of residence responsible for the cost of a one-to-one aide in the educational setting and residential setting of a non-approved residential facility?

Answer: If the state superintendent notifies a district of residence of satisfactory proof that a student's IEP requires a one-to-one aide, that district is responsible for the cost of the one-to-one aide in the educational setting as included in the established tuition rate.

Districts are only responsible for costs related to educational services outlined in a student's IEP. The agency that placed a student residentially would fund the one-to-one aide in the residential setting.

Question G7: If a student who is eligible for special education services is placed in a non-approved residential facility by an Illinois juvenile court order, is the school district of residence determined under Section 14-1.11 or 14-1.11a? Under what section of the School Code should the resident district apply for reimbursement?

Answer: The resident district may be determined under either 14-1.11 or 14-1.11a depending on the status of the parental rights of the parents/guardian. If the parents have not been subject to a termination of a parental rights order, then the residency of the student is determined by Section 14-1.11 and the school district of residence is the district in which the parents reside. Following receipt of notification of satisfactory proof, that district should be billed for educational services in accordance with the Special Education Tuition Cost Administrative Rule in Part 130. The district will include the student as part of its total district enrollment for credit under the EBF formula. In addition, if the student receives special education services and has excess costs computed that exceed four times the resident district's PCTC, a claim may be submitted per Section 14-7.02b.

If the student's parents have been subject to a termination of parental rights order and the student is now a DCFS youth in care, residency is determined under Section 14-1.11a and the resident district is the school district in which the student resides. Following receipt of notification of satisfactory proof, that district is responsible for educational service costs and can apply for reimbursement under Section 14-7.03.

Question G8: Which district is responsible for the payment of educational costs if a student is currently placed by an Illinois public agency or court in a non-approved residential facility and the parent/guardian of the student moves to a new school district?

Answer: Under Section 14-1.11, the school district into which the parent/guardian has moved becomes the student's resident district. The parent/guardian should enroll the student into that school district. If notification of satisfactory proof had been received, the district into which the parent/guardian has moved assumes financial responsibility from the date of enrollment, which shall serve as the district's actual date of notice of the student's placement.

Question G9: If a student with disabilities is residentially funded through the Illinois Department of Human Services Division of Developmental Disabilities, is the resident district of the student required to complete a co-fund letter?

Answer: Yes, if the residential placement of a student with disabilities is funded through the Department of Human Services Division of Developmental Disabilities (DDD), the resident district of the student is required by DDD to complete a co-fund letter when a facility has been identified. The completed co-fund letter, which should be addressed to the Independent Service Coordination agency overseeing the case, serves as the resident district's acknowledgement of its obligation to pay the educational costs associated with the student's residential placement outside of the district. Whereas, the room and board costs remain the responsibility of DDD.

Question G10: If a student with disabilities has been placed by an Illinois court or agency in an approved residential facility outside of the school district of residence and, consistent with the student's educational needs, is sent to a public school program for services, is the student's school district of residence responsible for the costs of educational services and is the public school placement eligible for reimbursement?

Answer: Yes, under Section 14-7.05 the resident district determined in accordance with Article 14 provisions is responsible for the costs of educating the student. The resident district in this scenario will generally be the district where the parent resides unless there has been a termination of parental rights.

If parental rights have not been terminated and the student is residentially placed by a state agency or court order, the district where the parent lives is responsible for the enrollment of the student. The district will include the student as part of its total district enrollment for credit under the EBF formula. In addition, if the student receives special education services and has excess costs computed that exceed four times the resident district's PCTC, a claim may be submitted per Section 14-7.02b. In such instances, excess costs billed by the district providing services must be calculated in accordance with Part 130 [23 IAC 130, et seq.].

Question G11: If a student with disabilities is placed by an Illinois agency in a non-approved residential facility that is located outside their school district of residence and the student is sent to a public school program for services, is the student's school district of residence responsible for the costs of educational services?

Answer: Yes, according to Section 14-7.05, the resident district determined in accordance with Article 14 provisions is responsible for the costs of educating the student following receipt of notification of satisfactory proof of approval under Section 14-7.05. The resident district in this scenario will generally be the district where the parent resides unless there has been a termination of parental rights. Resident district financial responsibility and reimbursement applies for both residential facilities that are approved by ISBE and non-approved facilities, subject to the requirements articulated in Section 14-7.05:

“Payments shall be made by the resident district to the entity providing the educational services, whether the entity is the residential facility or the school district wherein the facility is located, no less than once per quarter unless otherwise agreed to in writing by the parties” (Section 14-7.05).

Question G12: If an Illinois juvenile court has issued an order that places a student in a residential facility and indicates that the student is a youth in care of the court, but the student's parents have not been subject to a termination of parental rights, can the school district of residence claim reimbursement under Section 14-7.03?

Answer: No. If the parents' rights have not been judicially terminated, then the student's residency must be determined according to Section 14-1.11 and

the school district in which the parents reside is the resident district. That district cannot apply for reimbursement under Section 14-7.03.

If the residential facility has an ISBE-approved onsite special education program with a tuition per diem rate approved by the Illinois Purchased Care Review Board, the district may claim Special Education Private Facility reimbursement under the provision of Section 14-7.02. If there is not an approved special education program at the residential facility, the resident district should be billed for educational services in accordance with the Special Education Tuition Cost Administrative Rule in Part 130. The district will include the student as part of its total district enrollment for credit under the EBF formula. In addition, if the student receives special education services and has excess costs computed that exceed four times the resident district's PCTC, a claim may be submitted per Section 14-7.02b.

Examples of the types of language in court orders that are not acceptable for Section 14-7.03 funding include:

- "Director of Court Services is named guardian with power to place the minor. Minor and family to cooperate with residential placement. Parents to reimburse DCFS for ..."
- "Custody and guardianship of minor given to (Name), Director of Probation Department. The minor's parents to pay the custodian the reasonable sum for all necessary medical, dental and other necessary expenses."
- "(Name) is hereby appointed temporary Guardian of the aforementioned minor. The county shall also pay for medical care not covered by parents."
- "(Name), Supervisor of County Probations, is made Guardian of the Minor. The parents shall ensure that ..."

Question G13:What type of proof is necessary to document a placement made by a court for a special education student?

Answer: See answer to B5 on page 13. Similar to general education students, a court order is generally sufficient proof to document a placement made by a court. If a copy of the court order cannot be provided to the school district, it must accept other forms of proof that a student has been placed by a court into treatment. Other forms of proof may include, but are not limited to:

1. Probation reports documenting the placement was made by court;
2. Affidavits from an involved attorney, probation officer, serving facility director, or caseworker involved in the minor's court case indicating that treatment in the facility made by a court in this state;
3. Proof from the treatment facility that payment of treatment was made by a state agency.

H. Residential Placement of Students Eligible for Special Education: **Questions Specific to Emergency and Student-Specific Placements in Non-Approved Residential Facilities**

Question H1: To what placements do the provisions of 23 Ill. Adm. Code 226.330(g) apply?

Answer: The provisions of 23 IAC 226.330(g) apply to emergency and student-specific placements in nonpublic special education residential facilities providing educational services but are not approved by ISBE pursuant to 23 Ill. Adm. Code 401 or other applicable laws or administrative rules. Resident district financial responsibility and reimbursement under Section 14-7.02 applies to these placements.

Question H2: To what placements do the provisions of 23 Ill. Adm. Code 226.330(i) apply?

Answer: The provisions of 23 IAC 226.330(i) apply to placements in residential facilities not approved by ISBE that were ordered by an impartial due process hearing officer. The facility where a student is ordered to be placed shall be deemed approved for placement. Once approved, resident district payments and state reimbursements shall be made accordingly.

Question H3: If a resident district entered into a settlement agreement with a parent or legal guardian to place a student in a facility not approved by ISBE because no ISBE-approved facility would accept the student, can the resident district now submit a claim for reimbursement for an emergency placement?

Answer: No. The provisions of 23 IAC 226.330(g) and 23 IAC 226.330(i) only apply to (1) placements where ISBE provided emergency and student-specific

approval or (2) placements in a residential facility that were ordered by an impartial due process hearing officer contracted by ISBE. A resident district may still submit Form 34-43 Application for Reimbursement of Emergency and Student-Specific Residential Placement in Non-approved Facility and attach an Excel spreadsheet to demonstrate good faith efforts to locate placement in a facility approved under 23 IAC 401. Upon ISBE approval, the resident district may receive reimbursement pursuant to 105 ILCS 5/14-7.02 starting from the date of ISBE approval.

Question H4: Does a resident district have to wait for emergency and student-specific approval from ISBE before a student can be placed in a facility not approved by ISBE pursuant to 23 Ill. Adm. Code 401?

Answer: The determination of whether a non-approved residential facility is appropriate for an individual student is at the discretion of the student's IEP team. ISBE approval of placement is limited to granting districts with the ability to receive reimbursement for placements in a nonpublic special education facility not approved by ISBE pursuant to 23 IAC 401, 23 IAC 226.330(g), or other applicable law. To receive room and board reimbursement, the placing school district must complete ISBE Form 34-43. Reimbursement is only provided starting from the date Form 34-43 is received. The reimbursement of this placement will not be provided until the submission has been reviewed and has been determined to meet the requirements of 105 ILCS 5/14-7.02(e). ISBE will approve requests for reimbursement of emergency and student-specific placement within 10 days of receiving a request. ISBE approval of Form 34-43 is not required prior to placement; however, school districts that move forward with placement prior to receiving reimbursement approval do so at the risk of not meeting the requirements of 105 ILCS 5/14.7.02(e).

Question H5: What constitutes "good faith efforts"?

Answer: A resident district must complete an Excel spreadsheet to demonstrate good faith efforts to locate placement in a facility approved under 23 IAC 401. The Excel sheet must demonstrate that all appropriate facilities were contacted and each facility either would not accept the student or there was no immediate placement available. The spreadsheet must contain the following:

- Name of facility (must match the name as listed in the Private Facility Search engine);
 - Facility address;
 - Facility contact's name and number/email;
 - Date(s) of contact;
 - Method of contact;
 - First and last name of person who made contact;
 - Date referral packet was sent;
 - If a referral packet was not sent, an explanation of why;
 - Reason the student was not accepted;
 - If the student was accepted, anticipated date of placement or waitlist length;
 - Any additional notes.
-

Question H6: If a parent or legal guardian refuses to sign a release for a resident district to send applications to facilities that are on the ISBE-approved facilities list, will that prohibit the district from placing the student in a facility not approved by ISBE, pursuant to 23 Ill. Adm. Code 401 or other applicable laws or administrative rules and receiving reimbursement for the placement?

Answer: No. According to 23 IAC 226.330(g)(5), ISBE shall approve requests for emergency and student-specific approval for placement when, "... The school district demonstrates that it made good faith efforts to place the student in an approved facility, but no approved facility has accepted the student or has availability for immediate placement of the student." A parent or guardian refusing to sign a release does meet this requirement. To apply for reimbursement, the resident district must complete an Excel spreadsheet to demonstrate good faith efforts to locate placement in a residential facility approved under 23 IAC 401. The spreadsheet must document:

1. Date referral packet was sent;
 2. If a referral packet was not sent, an explanation of why (e.g., parent did not sign a release to send the packet);
 3. The reason the student was not accepted at the residential facility; and
 4. If the student was accepted, anticipated date of placement or amount of time that will be spent on waitlist.
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Question H7: If a facility on the ISBE-approved facilities list accepts a student but the parent or legal guardian does not agree to place the student at the facility, will that prohibit the district from placing the student in a facility not approved by ISBE pursuant to 23 Ill. Adm. Code 401 or other applicable laws or administrative rules and receiving reimbursement for the placement?

Answer: A parent or guardian not agreeing to place a student in a facility that is on the ISBE-approved facilities list and that accepted the student may prohibit the resident district from placing the student in a facility pursuant to 23 IAC 226.330(g) and receiving reimbursement. Pursuant to 23 IAC 226.330(g)(5), ISBE shall approve requests for emergency and student-specific approval for placement when, "... The school district demonstrates that it made good faith efforts to place the student in an approved facility, but no approved facility has accepted the student or has availability for immediate placement of the student." A parent or guardian not agreeing to place their student in an ISBE-approved facility does not meet this requirement.

The parent or guardian and resident district may utilize special education dispute resolution options to help resolve any disagreements regarding the student's special education services.

Question H8: Should the Excel spreadsheet that districts are required to submit to demonstrate good faith efforts to locate placement in an approved facility include every facility relevant to the student's age, gender, and disability category that is on the [Private Facilities Search](#) list?

Answer: Yes. The district must include every ISBE-approved facility on the form. If a facility is not appropriate for the student, the district should document the specific reason(s) why the facility was not appropriate for the student (e.g., the student requires programming or services the facility does not offer, the facility is unable to accommodate a student's gender identity, etc.)

Question H9: How often must districts demonstrate a good faith effort to place a student in an approved facility?

Answer: An IEP team must review appropriate ISBE-approved residential facilities at least every three years following the student's placement as specified in 23 Ill. Adm. Code 401 to determine whether there is any approved

residential facility that can meet the student's needs, has accepted the student, and has availability for the placement of the student.

Question H10: If a student needs to move from one non-ISBE-approved residential facility to another non-ISBE-approved residential facility, is the district required to demonstrate good faith effort again?

Answer: If the student is moved from one non-ISBE-approved residential facility to another within the first three years of placement, the district is not required to complete the good faith effort to place a student in an ISBE-approved residential facility in order to receive reimbursement for the placement. The district may resubmit prior evidence of a good faith effort to meet this requirement if the student's circumstances have not changed since the initial placement in a non-ISBE-approved residential facility. However, if the student was initially placed in a non-ISBE-approved residential facility due to no bed being available, the district should complete a good faith effort to request placement in an approved facility and document those efforts as part of the application process to move the student to a new non-ISBE-approved residential facility.

Question H11: For emergency and student-specific residential placements, does the non-approved residential facility have to comply with provisions in Part 401 of the Illinois Administrative Code?

Answer: No.

Question H12: Must a district first pursue an in-state placement prior to making referrals to out-of-state placements?

Answer: Per 105 ILCS 5/14-7.02(c), prior to the placement of a child in an out-of-state special education residential facility, the school district must refer to the child or the child's parent or guardian the option to place the child in a special education residential facility located within this state, if any, that provides treatment and services comparable to those provided by the out-of-state special education residential facility. The student's IEP team (including the parents) must annually review the decision to place the student out of state. The district *does not* have to submit documentation of a good faith effort to place a student in an in-state placement prior to making referrals to an out-of-state placement if the child's parent or guardian has been provided the option to place the child in a comparable

facility located within the state to received reimbursement for the placement.

Question H13: What is required of school districts to receive reimbursement for placement in a non-approved facility?

Answer: Per 105 ILCS 5/14-7.02(e), a school district may place a student in a nonpublic special education residential facility providing educational services, but not approved by the State Board of Education pursuant to 23 Ill. Adm. Code 401 or other applicable laws or administrative rules, provided that the State Board of Education provides an emergency and student-specific approval for placement upon receipt of the following from the district:

- The facility demonstrates appropriate certification of teachers for the student population;
- The facility demonstrates age-appropriate curriculum;
- The facility provides enrollment and attendance data;
- The facility demonstrates the ability to implement the child’s IEP; and
- The school district demonstrates that it made good faith efforts to place the student in an approved facility, but no approved facility has accepted and can immediately place the student.

The district must apply for approval of reimbursement using ISBE Form 34-43 and submit the form prior to the placement of a student in the non-ISBE-approved residential facility.

Question H14:How will the rate of reimbursement be determined for emergency and student-specific placements?

Answer: Presentation and approval of per diems occurs after the Special Education Department has approved Form 34-43 for reimbursement of room and board in a non-ISBE-approved residential placement and the district has already entered into a contract with the provider. The Illinois Purchased Care Review Board does not set the per diem amount that non-ISBE-approved residential facilities charge Illinois public school districts for placements. Approval of non-approved facility per diems ultimately

determines how much reimbursement is provided to the district that enter into contracts with the non-approved facility. The costs will be subject to the same proration methodology as is applied to reimbursement for rates determined under 105 ILCS 5/14-7.02.

Question H15: If an Illinois special education due process hearing officer rules in favor of parents who have unilaterally placed their child in a non-approved special education facility, can the resident public school district seek reimbursement from ISBE?

Answer: When a hearing officer orders a district to reimburse a parent or facility for services in a non-approved residential placement, ISBE Form 51-77 is to be completed and submitted within 30 days of the hearing of the order. Allowable costs for tuition and room and board for students between the ages of 3 and 21 who are residents of the school district and have a parent other than a public agency will be considered for reimbursement. No room and board reimbursements will be made for students who have reached age 22.

Question H16: Does ISBE have a contract for non-ISBE-approved residential facilities?

Answer: No, the placing school district and non-ISBE-approved residential facility should enter into a contract determined to meet the interests of both parties. The contract should avoid references to 23 Ill. Adm. Code Part 401 and Part 1.285 as ISBE does not have investigatory authority over non-ISBE-approved residential facilities with regard to the aforementioned administrative rules. Placing school districts must accept responsibility for the student while placed in the non-ISBE-approved residential facility and assume liability for any safety and health concerns that arise due to the student's placement in such a facility.
