



Illinois State Board of Education

April 21, 2006
Guidance Document

STUDENTS WITH DISABILITIES IN REGIONAL SAFE SCHOOL PROGRAMS

*This document is intended to provide non-regulatory guidance on the subject matter listed above.
For specific questions, please contact the person(s) identified in the document.*

Rod R. Blagojevich, Governor

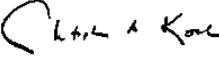
Illinois State Board of Education

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MEMORANDUM #06-1

TO: Regional Superintendents
District Superintendents
Directors of Special Education

FROM: Christopher A. Koch, Ed.D. 
Assistant Superintendent for Special Education

RE: Students with Disabilities in Regional Safe School Programs

This memorandum updates a November 8, 2001 memorandum on the placement of, and provision of services to, students with Individualized Education Programs (IEPs) in Regional Safe Schools Programs (RSSPs).

Article 13A of the Illinois School Code, 105 ILCS 5/13A-1 *et seq.*, provides for alternative programs for disruptive youth in grades 6 through 12. More than 100 RSSP sites are located throughout Illinois and are administered by the Regional Offices of Education, the three Intermediate Service Centers in Suburban Cook County, and District 299 (the Chicago Public Schools).

Placement of Students with Disabilities in a Regional Safe School Program

Generally, a student who is determined to be subject to suspension or expulsion in the manner provided by Section 10-22.6 or 34-19 of the School Code may be immediately transferred to an RSSP, *see* 105 ILCS 5/13A-4; however, Section 13A-4 does not, in our opinion, give schools the unilateral right to transfer students to the alternative program without prior consultation with the regional superintendent. The reference to an “immediate transfer” in Section 13A-4 means only that the transfer may be implemented without the student first serving the suspension or expulsion that would otherwise be imposed.

Section 13A-4 must be read in conjunction with Section 13A-3(c), which also concerns placement in the alternative program. Section 13A-3(c) states that “the regional superintendent in cooperation with a representative from each school district in the region shall establish and each school district shall adopt policies and procedures that guide each district in the identification and placement of students in the alternative school program.” 105 ILCS 5/13A-3(c). These policies and procedures for placing students in the alternative program should specify the pre-placement consultation that must take place before a transfer can occur, consistent with applicable law.

At a minimum, such consultation is necessary so that the regional superintendent can determine whether there is space in the program for the student and whether the program has the resources to serve the student's individual needs. Yet, the consultation must be conducted (and the policies and procedures must be drafted) with a full understanding of the procedural protections available to students with disabilities under in the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et seq.* (as reauthorized in 2004).

IDEA states that school personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a child with a disability who violates a code of student conduct. That being said, IDEA also sets out very specific procedures that must be followed when such a change in placement is made, *see* 20 U.S.C. § 1415(k):

- School personnel may remove a child with a disability from their current placement to an appropriate interim alternative educational setting (IAES), another setting or suspension for not more than 10 school days. The IAES must be determined by the IEP team and could potentially be an RSSP (if the student is determined to be subject to suspension or expulsion in the manner provided by Section 10-22.6 or 34-19 and all other procedural steps for placement in an RSSP are followed).
- If school personnel seek to order a change in placement that would exceed 10 school days, the school district must, within those first 10 school days, convene a meeting (of the school district, the parent and relevant members of the IEP team) to determine whether the behavior that gave rise to the alleged code of conduct violation was a manifestation of the child's disability.
 - If it is determined that the code of conduct violation was a manifestation of the child's disability, the school district must, among other things (and except as provided in the last bullet point below), return the child to the placement from which the child was removed (unless the parents and the school district agree to a change of placement as part of the modification of the behavioral intervention plan).
 - If, on the other hand, a determination is made that the behavior giving rise to the code of conduct violation was not a manifestation of the child's disability, the relevant disciplinary procedures applicable to children without disabilities may be applied to the child in the same manner and for the same duration in which the procedures would be applied to children without disabilities. Thus, like a student without an IEP, the student with an IEP could be transferred to an RSSP if the student is determined to be subject to suspension or expulsion in the manner provided by Section 10-22.6 or 34-19 and all other procedural steps for placement in an RSSP are followed.
- School personnel may remove a student to an IAES for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability where a child: (a) carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of a State or local

educational agency; (b) knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of a State or local educational agency; or (c) has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of a State or local educational agency. Again, the IAES must be determined by the IEP team and could be an RSSP if the student is determined to be subject to suspension or expulsion in the manner provided by Section 10-22.6 or 34-19 and all other procedural steps for placement in an RSSP are followed.

When making a determination as to the appropriate IAES, the IEP team should, to the maximum extent appropriate, ensure that the student is being educated in the least restrictive environment.

Further, a student with a disability may not be discriminated against based on his/her disability and may not be denied placement by the RSSP based on his or her need for special education services.

Service Requirements for Students with Disabilities

Once the regional superintendent has approved the placement as being consistent with the policies and procedures for placement and a student with a disability is otherwise properly transferred to an RSSP, his or her IEP shall continue to apply (unless appropriately modified). *See* 105 ILCS 5/13A-4. Note, however, that Section 13A-4 of the School Code states that, as soon as possible after the transfer, appropriate personnel from the sending school district and appropriate personnel from the RSSP shall meet to develop an alternative education plan for the student. The plan must contain, at least: (a) the duration of the plan, including a date after which the student may be returned to the regular educational program in the public schools of the transferring district; (b) the specific academic and behavioral components of the plan; and (c) a method and time frame for reviewing the student's progress. 105 ILCS 5/13A-4.

We interpret the requirement of Section 13A-4 to mean that the student's IEP Team must convene (including relevant representatives of the RSSP) and ensure that the requirements set out in Section 13A-4 of the School Code are integrated within the student's IEP.

The student's district of residence remains responsible for ensuring that the IEP services are appropriately provided. The provision of the services, including payment for those services, is a matter to be arranged between the district of residence (or special education cooperative, if applicable) and the RSSP.

Students with disabilities are required to be reported by the resident district on the Special Education Funding and Child Tracking System (FACTS). Further, assuming that the resident district/special education cooperative provides the services or reimburses for the services provided, personnel reimbursement can be claimed by the resident district/special education cooperative for the special education teacher and/or related staff services. Information regarding Special Education Personnel Approval and Reimbursement pursuant to Section 14-13.01 can be found at the following web sites:

Approval - http://www.isbe.net/funding/pdf/50-44_sped_personnel.pdf

Reimbursement - http://www.isbe.net/funding/pdf/sped_personnel_fiscalpro.pdf

Special Education Pupil Reimbursement “excess cost” pursuant to Section 14-7.02b of the School Code can also be claimed if the cost of education services paid by the resident district equals or exceeds four per capita tuition rates of the resident district. Information regarding Special Education Pupil Approval and Reimbursement can be found at the following web sites:
Approval - http://www.isbe.net/funding/pdf/34-30_sped_facts.pdf
Reimbursement - http://www.isbe.net/funding/pdf/sped_pupil_reim_fiscalpro.pdf

Students Identified for Services While Attending a Regional Safe School Program

If a student who is placed in a RSSP is subsequently referred for a special education evaluation, the evaluation and eligibility determination must be conducted in accordance with IDEA, the Illinois School Code and Part 226 of Title 23 of the Illinois Administrative Code. Should the student be determined eligible for special education, an IEP Team must meet and develop an IEP.

The IEP Team must include not less than 1 regular education teacher (if the child is, or may be, participating in the regular education environment). 20 U.S.C. § 1414(d)(1)(B). For a student attending an RSSP, an RSSP teacher could qualify as a regular education teacher. Other representatives from the RSSP may also need to attend the IEP meeting if they have knowledge or special expertise that will assist in making the eligibility and placement determination.

The IEP Team is responsible for deciding whether the RSSP is the appropriate placement for the student or if the student should, in accordance with the least restrictive environment requirements and other applicable legal provisions, be moved to a different program in order to receive the services listed on his/her IEP.

The district of the student’s residence is administratively responsible for the evaluation, IEP process and the placement determination. As referenced above, the district may involve the special education cooperative in this process depending upon the nature of their service agreement.

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Any questions regarding this letter should be addressed to:

Sally Veach, Accountability Division at (217) 782-2948 or
Beth Hanselman, Special Education Services Division at (217) 782-5589

Thank you for your continued service to students with special needs.