OSSE
DC Office of the State Superintendent of Education

January 5, 2010

(X) **ACTION REQUIRED**
( ) **INFORMATIONAL**

TO: Chancellor, District of Columbia Public Schools (DCPS)
Public Charter School Board
Public Charter School Directors
Principals, DCPS

FROM: Kerri L. Briggs, PhD
State Superintendent of Education

RE: Policies and Procedures for Placement Review, Revised

CONTACTS: Amy Maisterra, Ed.D., Chief of Staff
Department of Special Education
Email: Amy.Maisterra@dc.gov
(202) 481-3757
OR
Grace Chien, Charter LEA Policy and Implementation Specialist
Department of Special Education
Email: Grace.Chien@dc.gov
(202) 741-5089

This Memorandum serves to clarify the expectation of the Office of the State Superintendent of Education (OSSE) regarding changes to a child's placement that result in a more restrictive environment as outlined in the Individuals with Disabilities Education Act (IDEA), Title 38 of the District of Columbia Official Code, and Title 5 of the District of Columbia Municipal Regulations (DCMR). OSSE, in its role as SEA, has the authority to implement this policy in the manner which best ensures beneficial student outcomes in compliance with IDEA LRE provisions. This Memorandum supersedes all previous policy, memoranda and/or guidance promulgated by the OSSE as the state education agency (SEA), and in particular, replaces the Policy and Procedures for Placement Review, Version 1.0 issued on October 1, 2008. This policy takes effect on January 2010.

Background

The IDEA mandates that to the maximum extent appropriate, all children with disabilities be educated with their non-disabled peers in the least restrictive environment (LRE).[1] LRE can be achieved through inclusive practices in which all children, including those with significant disabilities, have an equal opportunity to receive a high quality instruction in the general education classroom with the necessary supplementary aids and services.[2] A general education classroom is inappropriate only if the IEP team determines that the nature or severity of the child's disability is such that education in the general education classroom with the use of supplementary aids and services cannot be achieved satisfactorily.

To ensure LRE, Local Education Agencies (LEAs) must provide a continuum of alternative placements to meet the needs of all children with disabilities.[3] The continuum is a range of placements, such as general education classes, special classes, special schools, home instruction, and instruction in hospitals and institutions, where an IEP can be implemented.[4] LEAs should always consider placement in the general education classroom within the District of Columbia public school or public charter school before considering a more restrictive placement.[5] Any alternative placement selected outside of the general education classroom must include appropriate opportunities for the child to interact with his/her non non-disabled peers.[6]

Responsibilities of LEAs

If an LEA anticipates that it may be unable to meet its obligation to provide a full continuum of placements in the LRE, it must notify the OSSE, Department of Special Education ("OSSE DSE") prior to the IEP meeting which is scheduled to consider placement into a more restrictive environment. The OSSE DSE, in its advisory role to the IEP team, may provide technical assistance to support efforts related to LRE objectives.

Initiating the Placement Request Process

Prior to the IEP team meeting to discuss a possible Change in Placement (CIP), the LEA must document the need for a more restrictive environment in the Special Education Data System (SEDS). This documentation must include specific strategies that the LEA implemented and the supports and services utilized to ensure that the child had the opportunity to experience success in the classroom. Additionally, the LEA must submit a completed Justification for Removal Statement (JRS) with the following information:

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[1] 34 C.F.R. §300.114
[2] See OSSE Memorandum No. 09-004 Least Restrictive Environment and Inclusion Policy
[3] 34 C.F.R. §300.115(a)
[4] 34 C.F.R. §300.115(b)
[5] D.C. Code § 38-2561.02
[6] 34 C.F.R. §300.114(a)(2)(i); OSSE Memorandum No. 09-004 Least Restrictive Environment and Inclusion Policy

1) A description of the child's special education and related service needs;
2) A description of the services that have been considered by the team and implemented as strategies for success in the general education classroom or LRE;
3) A description of any specific placements and/or locations under consideration or requested by the parents and/or the LEA; and
4) A description of provisional plans for reintegration back into a less restrictive learning environment.

LEAs must submit a completed JRS to the OSSE-DSE by email (preferred), fax, or postal mail to:

Office of the State Superintendent of Education
Department of Special Education, Placement Oversight Unit
Attn: Yuliana Del Arroyo
51 N Street NE, 7th Floor
Washington, DC 20002
(202) 741-0478 (Office)
(202) 741-0229 (Fax)
Yuliana.Delarroyo@dc.gov

An LEA that opts to send materials by fax or postal mail should keep confirmation of fax or delivery for their records. Incomplete requests may cause a delay in processing. Upon receipt of the JRS, a placement reviewer will be assigned to oversee the case within one (1) business day.

At minimum, the OSSE DSE requires 30 days notice between the time of JRS receipt and the IEP team meeting date to conduct a comprehensive review of the case in order to become well-informed of the issues, barriers to service, and placement options involved in each case.[7] The IEP team may request an expedited review (i.e., that the IEP team meeting occur within less than the 30 day notice period). The IEP team must include a detailed written rationale for the request. OSSE DSE may grant the request upon a showing of good cause by the IEP team as determined by OSSE DSE.

Placement Review

Once OSSE DSE has confirmed receipt of the JRS, the LEA must submit copies upon request, of the child's current and past IEPs, all recent evaluations, report cards, documentation of

[7] A public charter school that has elected DCPS as its LEA for special education purposes ("District Charter") should follow guidelines set by the DCPS Office of Special Education. For more information, please visit http://www.k12.dc.us/offices/ose/index.htm or call (202) 442-4800.

behavioral incidents and/or related disciplinary actions, and any other relevant information that informs a determination regarding the child's level of need.

During the placement review process, the OSSE DSE may elect to visit a school site and speak with family members or staff familiar with the child. A representative from the OSSE DSE may attend the CIP meeting by phone or in person to provide constructive input to the IEP team and to ensure that the LEA has exhausted its efforts in serving the child onsite. The OSSE DSE placement review specialist will provide a recommendation regarding placement, indicating whether the placement into a more restrictive environment is "warranted" or "not warranted."[8] A recommendation of "not warranted" does not negate the IEP team's placement decision nor prevent the child from being placed.

The IEP team, and not the OSSE DSE placement review specialist, will determine whether the needs of the child can be met in the current LRE with additional supports, or if the child's needs require a more restrictive placement. In this context, the term *placement* refers to the learning environment classified by level of restrictiveness (e.g. general education classroom, special education/resource classroom, or private facility).

Following an IEP team's decision to place a child into a more restrictive environment, OSSE DSE will make a decision regarding location assignment. In this context, the term *location* refers to the actual school site or facility at which the child will receive his/her instruction. The OSSE DSE will assign a location based on the following order:

1) DCPS schools, or District of Columbia public charter schools pursuant to an agreement between DCPS and the public charter school;
2) Private or residential District of Columbia facilities; and
3) Facilities outside of the District of Columbia.[9]

The OSSE DSE will issue a Notice of Location Assignment within ten (10) business days after the IEP team makes its placement decision. The OSSE DSE will mail a copy of this Notice to the child's parents, parents' representative, receiving school and nonpublic billing unit (if the child is attending a nonpublic school). The LEA will issue the Prior Written Notice as required by the IDEA.[10]

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[8] If for any reason the placement review specialist does not attend the change in placement meeting, the IEP team must provide the meeting date and a copy of the relevant documentation to him or her in as timely a manner as possible.
[9] D.C. Code § 38-2561.02
[10] 34 C.F.R. § 300.503

Transportation

IDEA defines transportation as: (a) travel to and from school and between schools, (b) travel in and around school buildings, and (c) specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability.[11] Not all children with disabilities are eligible to receive transportation as a related service. Transportation is a related service when it is needed in order for the child to benefit from special education. If transportation to and from school for the general student population is provided, then transportation must be provided for a child with a disability in order to not discriminate against the child with a disability. If transportation is not provided for the general student population, then the issue of transportation for children with disabilities must be decided on a case-by-case basis by the IEP team.[12]

If the IEP team determines that the child needs transportation to benefit from his or her special education, then a statement to that effect must be included in the IEP, along with any relevant details regarding the transportation. Additionally, if the IEP team determines that the parent will provide transportation; this should also be indicated on the IEP in a manner which includes any necessary arrangements to ensure that it is at no cost to the parent if it is a related service.

Parental Rights

The parental right to dispute the location assignment is unaffected by this policy. The parent still holds the same legal rights that apply to every aspect of the special education process. Therefore, when a disagreement occurs, the parent can request mediation, file a state complaint, or file a due process complaint.[13] For further information on the parent~~s'~~ rights please refer to the Procedural Safeguard Manual for parents.

Compliance and Monitoring

Please be advised the OSSE may conduct unannounced monitoring activities to ensure LEA compliance with federal and local law.

Additional Guidance

Please direct any questions regarding the content of this memorandum to Amy Maisterra, Ed.D., Chief of Staff, at (202) 481-3757 or by email at Amy.Maisterra@dc.gov, or Grace Chien, Charter LEA Policy and Implementation Specialist, at (202) 741-5098 or by email at Grace.Chien@dc.gov.

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[11] 34 C.F.R. §300.34(c)(16)
[12] 34 C.F.R. §300.320(a)(4)
[13] 34 C.F.R. §§ 300.506, 300.507