



**Proposed Nonpublic Certificate of Approval Regulations
Frequently Asked Questions (FAQs)
June 2010**

1) What is a Certificate of Approval?

A Certificate of Approval (COA) is a license that any special education school or program that receives District of Columbia funding to serve students with disabilities must receive and maintain. The COA is issued by the Office of the State Superintendent of Education (OSSE), the District's State Education Agency. A school or program must meet certain standards to be granted a COA and must operate in a manner consistent with the specifications recorded on the COA as well as the statute and regulations governing all COAs which are found at D.C. Official Code 38-2561.01 et seq., and will be found in chapter A-28 of Title 5A of the District of Columbia Municipal Regulations, once they are promulgated as final.

2) Why is OSSE creating Certificate of Approval regulations?

The Placement of Students with Disabilities in Nonpublic Schools Amendment Act of 2006, (the Placement Act) (District of Columbia Municipal Code, 38-2561.01 et seq.) requires that OSSE (a) establish a process for issuing COAs and monitoring compliance with federal and local requirements that apply to non-public schools and programs serving District students with disabilities, and (b) establish a process for setting the rates at which the District pays these schools and programs. These regulations establish both of these processes in more detail.

3) What is the purpose of a Certificate of Approval?

A COA confirms that a nonpublic special education school or program has met all operating requirements established by the OSSE, in compliance with federal and District law. It also subjects the non-public school or program to monitoring and oversight to ensure that the licensee continues to meet the District's operational standards. While OSSE can grant a COA for periods up to three years, each school or program with a COA must also file a certificate of compliance with the OSSE on an annual basis.

The Placement Act and the proposed rulemaking create uniform requirements for nonpublic special education schools and programs serving a District of Columbia "child with a disability" as defined by the Individuals with Disabilities Education Act, (IDEA) U.S.C. §1400 et seq. The COA process is designed to ensure that nonpublic special education schools and programs funded by the District of Columbia meet specified standards, including both operating and educational requirements, and to assure the well-being of children attending these programs as well as the delivery of a Free Appropriate Public Education (FAPE) in the least restrictive environment (LRE) as required by IDEA. FAPE includes both special education and related services and must be provided to each child with a disability in accordance with the child's Individualized Education Program (IEP) at no cost to the parent.

4) What do the proposed regulations address?

The proposed regulations address the following two processes required by District law:

COA Program Quality and IDEA Compliance

- Ensures that nonpublic programs align their curriculum and graduation standards with the District of Columbia
- Clarifies requirements related to the appropriate administration of the District of Columbia's statewide assessment (DC CAS)
- Ensures IDEA compliance and clarifies the obligations of the Local Education Agency (LEA) and nonpublic school or program related to the implementation and maintenance of up-to-date IEPs
- Ensures compliance with the District of Columbia's discipline and truancy regulations
- Prohibits the use of aversive interventions
- Delineates the use of restraint and seclusion
- Delineates the required qualifications of personnel
- Clarifies operational and safety requirements

Rate Setting and Fiscal Accountability

- Brings greater clarity, uniformity and transparency to rate-setting generally
- Establishes a process whereby OSSE shall set nonpublic tuition rates for private day and residential schools that align with the District's Uniform Per Student Funding Formula (UPSFF) which is used to determine how public schools are funded to serve children with disabilities
- Allows OSSE, in its discretion, to adopt tuition rates established by another jurisdiction in cases where that state employs a rigorous rate setting methodology deemed reasonable by OSSE
- Establishes related service rates aligned with District of Columbia Health Care Finance (DHCF) Medicaid rates
- Clarifies that residential programs that qualify as Psychiatric Residential Treatment Facilities (PRTFs) shall be paid at the DHCF rate
- Addresses payments for chronically truant students

5) What if a nonpublic school or program, a parent, or another interested party has concerns about the proposed rules?

The proposed rules have a 30 day comment period. Any member of the public, including nonpublic schools and programs, may send written comments to OSSE at Osse.publiccomment@dc.gov by July 19, 2010. OSSE is also inviting members of the public to attend an open forum to discuss the proposed rules, scheduled for June 24, 2010. Please watch the OSSE website for time and place of the forum.

6) When will the proposed rules become final?

The COA regulations will be open for public comment for 30 days after initial posting on June 18, 2010. The public comment period will close on July 19, 2010. OSSE will also be hosting a public hearing on June 24, 2010. After the public comment period ends, OSSE will review feedback from all stakeholders. As with any regulatory promulgation in the District, OSSE will determine whether to publish final rules as proposed or to make further revisions and re-propose some or all of the proposed rules.

OSSE's goal is to have final rules in place for the new school year. OSSE will provide schools and programs with an opportunity to comply with new regulatory provisions as part of the COA renewal process currently underway.

7) Will the proposed regulations result in changes of student placements?

These rules do not require the movement or relocation of any student or otherwise affect the rights that a child and his or her family have under IDEA. A child's location must continue to be consistent with the placement decisions of his or her IEP team as spelled out in IDEA. These rules merely set the standards which nonpublic schools or programs serving the District's children with disabilities must meet and the method by which the rates to be paid by the District are set. The mandate of the Placement Act and OSSE's primary purpose for issuing COA regulations is to ensure that children with disabilities are served in appropriate settings that will meet their individualized educational needs as well as ensure their safety. Only in those cases where a school or program fails to maintain its COA (i.e., violates federal or District requirements) will it be barred from serving District students. Separately, OSSE is committed to providing LEAs with technical assistance that ensures the LEAs compliance with IDEA's IEP process. All students will continue to be served as outlined in their IEP.

The COA Process

8) Will a sending LEA's obligations be different under the proposed regulations?

No. The proposed regulations reinforce current obligations of LEAs and public schools as well as nonpublic schools or programs under IDEA. They specifically address the nonpublic school or program's role in the development and implementation of student IEPs, requirements related to monitoring student progress and attendance, and obligations to ensure student health, welfare, and safety.

9) What if a nonpublic program has a COA that expires before the regulations are finalized?

All current COAs will remain in effect until OSSE finalizes the proposed regulations. Programs with current COAs will receive a direct communication confirming their status.

10) What happens if a school refuses to comply with the new COA requirements?

OSSE has a responsibility to revoke, suspend or refuse to renew the COA of any nonpublic school or program that does not comply with federal or District law. A program's refusal to comply with the new COA requirements will likely result in the revocation, suspension of or refusal to renew the school or program's COA. Should a school refuse to comply with the new COA requirements, the LEA responsible for the student's IEP is expected to contact parents to schedule an IEP meeting to discuss alternative locations that can implement the IEP.

11) My program just submitted an application for a COA. What should I expect as next steps?

All new applications and applications for COA renewal are being reviewed upon receipt. OSSE will communicate with each applicant. OSSE will also request further information from COA applicants as needed to process pending applications submitted prior to the effective date of the final regulations.

Rate-Setting and Payment

12) What is the purpose of the proposed rate-setting process?

In general, the District wants to take a uniform approach in funding services that is based on student needs in order to ensure that resources are properly and responsibly allocated so that children are best served in the LRE. OSSE also aims to ensure that similar rates are paid to different schools serving children with similar needs. In all cases, the District will meet its mandate to serve individual children according to their IEPs.

13) Will these rules change the monthly payment process and the method by which non-publics submit invoices to OSSE?

No. The proposed rules do not change the invoice submission or payment process currently in place. All payments will continue to be processed monthly based upon date of receipt as of the 5th or 15th day of each month.

14) What rates will be used prior to new rates going in to effect?

OSSE is sending out notification to all schools and programs confirming that the rates for the 2009-2010 school year will remain in effect until new rates are final and effective. Schools should expect to receive notification shortly.

15) When will the new rates take effect?

OSSE anticipates that final rates will take effect approximately 30 days after the rule becomes final through publication in the DC Register. OSSE will directly notify schools and programs of their final rates. To ensure a smooth transition, OSSE will also align the effective date for the new rates to coincide with routine billing cycles.

16) What are my options if I do not agree with a final rate?

The proposed rules outline in detail how a school or program can have any final rate reviewed before an independent panel (the Rate Reconsideration Panel) in conformance with the process established by the Placement Act. A school or program must request such a review within the 30 day time period established by statute and detailed in the proposed regulation.

17) Does receipt of a COA indicate endorsement of a program's proposed rates?

No. The COA and rate setting processes, while both affect non-public schools and programs, are separate functions under both the Placement Act and these regulations. When a school or program accepts a COA it does not forfeit any rights it has under the Placement Act to have a rate reviewed by the Rate Reconsideration Panel within the statutory deadlines.

18) Who should I contact if I have specific questions?

Questions and comments should be directed to Osse.publiccomment@dc.gov.