



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

December 27, 2016

Ellen M. Chambers, MBA
141 River Road
Pepperell, MA 01463

Dear Ms. Chambers:

This letter responds to your January 18, 2016 correspondence to Ms. Ruth Ryder, Acting Director for the Office of Special Education Programs, U.S. Department of Education (Department). In that letter, you ask for clarification regarding the obligation of local educational agencies (LEAs) to provide transportation services to children with disabilities who have been placed in private schools by their parents to and from LEA-recommended special education services. Specifically, you ask whether LEAs are required to provide transportation services to parentally-placed private school children to locations outside the LEA's geographic boundaries, including across State lines.

Under the Individuals with Disabilities Education Act (IDEA), each LEA must locate, identify, and evaluate all children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA. 34 CFR §300.131(a). In addition, each LEA must consult, in a timely and meaningful way, with appropriate representatives of parentally-placed private school children with disabilities, regarding the amount of IDEA Part B funds that must be expended for services for this population of children, on the number of parentally-placed private school children with disabilities, the needs of those children, and their location. 34 CFR §300.134. Through this consultation process, decisions are made about how, where, and by whom special education and related services will be provided to parentally-placed private school children with disabilities. 34 CFR §300.134(d). Those decisions include the types of services to be provided, and how and when those decisions will be made. 34 CFR §300.134(d).¹

Each LEA must give appropriate representatives of parentally-placed private school children with disabilities a genuine opportunity to express their views regarding each matter that is the subject of the consultation process. However, the LEA makes the final decision about which eligible children will receive services, the services to be provided to eligible parentally-placed

¹ The Massachusetts regulations cited in your letter require the provision of special education services to children with disabilities placed in private schools by their parents. Under IDEA, parentally-placed private school children with disabilities do not have an individual right to receive some or all of the special education and related services they would receive if enrolled in a public school. 34 CFR §300.137(a). IDEA requires LEAs to provide equitable services to children with disabilities placed in private schools by their parents, but not necessarily the same special education and related services that a child attending public school would receive. Therefore, this response will address only the IDEA requirement related to the provision of equitable services to parentally-placed private school children with disabilities.

private school children with disabilities, and where the services will be provided. 34 CFR §300.137(b). See also Question D-1, *Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools, Revised April 2011* (Q&A) available at: <http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CQaCorner%2C1%2C>.

If transportation is necessary for a parentally-placed private school child with a disability to benefit from or participate in the services provided under the IDEA private school provisions, an LEA must provide the child transportation from the child's school or the child's home to a site other than the private school; and from the service site to the private school, or to the child's home, depending on the timing of the services. While IDEA does not restrict the provision of transportation to locations within an LEA or within a State, nothing in IDEA requires LEAs to provide transportation from the home of a parentally-placed private school child with a disability to the private school. 34 CFR §300.139(b). Services offered to parentally-placed private school children with disabilities may be provided on the premises of the child's private school, including a religious school, to the extent consistent with law, or at another location. 34 CFR §300.139(a).

The Department believes, in the interests of the child, LEAs should provide services on site at the child's private school so as not to unduly interrupt the child's educational experience, unless there is a compelling reason for these services to be provided off-site. See *Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities, Final Rule*, 71 Fed. Reg. 46540, 46596 (Aug. 14, 2006) available at: <https://www.gpo.gov/fdsys/granule/FR-2006-08-14/06-6656>. If services are provided at a site separate from the child's private school, transportation may be necessary to get the child to and from the separate site. Failure to provide transportation could effectively deny the child an opportunity to benefit from the services that the LEA has determined through consultation to offer its parentally-placed private school children with disabilities. LEAs should work in consultation with representatives of private school children to ensure that services are provided at sites, including on the premises of the child's private school, so that LEAs do not incur significant transportation costs. 71 Fed. Reg. 46540, 46596-46597.

Based on section 607(e) of the IDEA, we are informing you that our response is provided as informal guidance and is not legally binding, but represents an interpretation by the Department of the IDEA in the context of the specific facts presented.

If you have any further questions, please do not hesitate to contact Ken Kienas of my staff at 202-245-7621 or by email at Ken.Kienas@ed.gov.

Sincerely,

/s/

Ruth E. Ryder
Acting Director
Office of Special Education Programs