

# FLORIDA DEPARTMENT OF EDUCATION



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Commissioner of  
Education



K12: FY 2007-07

Date: April 2, 2007

## Technical Assistance Paper

### Nonresident Exceptional Education Students Served in Residential Facilities

**Summary:** The purpose of this technical assistance paper (TAP) is to provide districts with guidance in implementing the requirements relative to nonresident exceptional students served in residential facilities. This TAP addresses verification of residency, calculating educational costs, contracting with residential facilities, data reporting issues, and billing procedures.

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**Status:**

- New Technical Assistance Paper
- Revises and replaces existing Technical Assistance Paper:

Issued by the  
Florida Department of Education

Division of K-12 Public Schools  
Bureau of  
Exceptional Education and Student Services  
<http://www.firn.edu/doe/commhome/index.html>

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Technical Assistance Paper

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## **Background**

### **A-1. What is the legislative authority for funding of nonresident exceptional education students served in residential facilities in Florida?**

Section 1003.57(2)(a), Florida Statutes (F.S.), passed during the 2006 legislative session, provides clarification regarding funding of nonresident exceptional education students served in residential facilities. Section 1003.57(2)(a), F.S., states, “an exceptional student with a disability who resides in a residential facility and receives special instruction or services is considered a resident of the state in which the student’s parent is a resident.” The bill further indicates that nonresident students with disabilities being served in residential facilities “may not be reported by any school district for FTE funding in the Florida Education Finance Program (FEFP).” Within the bill, residential facilities are defined as “...any type of residential facility in this state, including, but not limited to, a public school, a private school, a group home facility as defined in s. 393.063, an intensive residential treatment program for children and adolescents as defined in s. 395.002, a facility as defined in s. 394.455, an intermediate care facility for the developmentally disabled or ICF/DD as defined in s. 393.063 or s. 400.960, or a community residential home as defined in s. 419.001.”

### **A-2. What are the responsibilities of the placing authority in the student’s state of residence, the residential facility, and the Department of Education?**

Under the new requirements, the cost of instruction, facilities, and services for nonresident students with disabilities is to be provided by the placing authority in the student’s state of residence, such as a public school entity, other placing authority, or parent. The residential facility is responsible for billing and collecting payment from the placing authority for the student’s educational and related services.

The legislation charges the Department of Education with:

- Providing school districts with a statement of the specific limitations of the district’s financial obligation for exceptional students with disabilities under federal and state law
- Providing technical assistance, as necessary, for developing a local plan to impose on a student’s home state the fiscal responsibility for educating a nonresident exceptional student with a disability
- Developing a process by which a school district must, before providing services to an exceptional student with a disability who resides in a residential facility in this state, review the residency of the student
- Formulate an interagency agreement or other mechanism for billing and collecting from a nonresidential student’s home state payment for the student’s educational and related services

## **Definitions and Explanations**

### **B-1. Which students fall under the provisions outlined in the law?**

The law impacts any student with a disability who lives in and receives educational services in a residential facility and whose parents are not residents of the state of Florida. These students are considered nonresident exceptional students with disabilities.

**B-2. How is the term “parent” defined?**

Section 1000.21, F.S., defines a parent as “either or both parents of a student, any guardian of a student, any person in a parental relationship to a student, or any person exercising supervisory authority over a student in place of the parent.” Noncustodial parents or parents whose parental rights have been terminated are not considered parents.

**B-3. What are residential facilities?**

A facility that is separate from the residence of a student’s parent or guardian is considered to be a residential facility. Residential facilities include, but are not limited to:

- Public or private residential schools
- Group home facility, defined as a residential facility that provides a family living environment including supervision and care necessary to meet the physical, emotional, and social needs of its residents. The capacity of such a facility shall be at least 4 but not more than 15 residents (s. 393.063, F.S.).
- Facilities with intensive residential treatment programs for children and adolescents, defined as a specialty hospital accredited by an accrediting organization, which provides 24-hour care and which has the primary functions of diagnosis and treatment of patients under the age of 18 having psychiatric disorders in order to restore such patients to an optimal level of functioning (s. 395.002, F.S.)
- Facility, defined as any hospital, community facility, public or private facility, or receiving or treatment facility providing for the evaluation, diagnosis, care, treatment, training, or hospitalization of persons who appear to have a mental illness or have been diagnosed as having a mental illness (s. 394.455, F.S.)
- Intermediate care facility for the developmentally disabled, defined as a residential facility licensed and certified in accordance with state law, and certified by the Federal Government, pursuant to the Social Security Act, as a provider of Medicaid services to persons who are developmentally disabled (s. 400.960, F.S.)
- Community residential home, defined as a dwelling unit licensed to serve clients of the Department of Children and Family Services, which provides a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents (s. 419.001, F.S.)

**B-4. Do Department of Juvenile Justice residential facilities fall under the provisions of this law?**

Yes.

**B-5. A nonresident student lives in a group home facility and attends a district public school not associated with the residential facility. Can this student be claimed for FTE funds?**

Yes. The law applies to a student “who receives instruction as an exceptional student with a disability *in* any type of residential facility in this state.” The law does not apply in cases where the student is living at a residential facility but attending a public school not associated with the residential facility, such as a neighborhood public school.

## **Verification of Residency**

### **C-1. How should residency be determined?**

Districts should contact residential facilities in their district and request that facilities provide the district with proof of residency for each student's parent for whom FTE funding will be claimed. Residency documentation must be the same documents used by all parents when enrolling their child in the district. These may include documents such as a utility bill, showing name and service address; current homestead exemption card; or lease agreement.

### **C-2. What if the parent cannot be located?**

If the parent of a student with a disability residing in a residential facility cannot be located, the district may report the student for FTE. In these cases, districts should maintain documentation of efforts to locate parent(s).

### **C-3. What if the placing authority—and not the parent—has custody of the student?**

In cases where the placing authority—not the parent—has custody of a student, the placing authority is considered to be the parent. This means that if the student is placed in a residential facility by a state agency with custody, the student shall be considered a resident of the state associated with the agency.

## **Calculating Educational Costs**

### **D-1. How should districts determine the amount to be billed to the placing authority for educational costs?**

Districts may calculate the state and local funds that would be generated from the Florida Education Finance Program if the student were a resident for the purpose of determining how much to charge residential facilities for serving nonresident students.

## **Contracting with Residential Facilities**

### **E-1. Our district currently has a contract with a residential facility in which the district agrees to provide exceptional education and related services at the residential site. What changes should be made to comply with the new legislation?**

The district will need to revise the existing contract, requiring the residential facility to bill the placing authority for the educational services and turn these funds over to the district. See Appendix A for a sample contract.

**E-2. An agreement between the residential facility and the district states that the residential facility will provide the educational program for students at the facility and the district will forward the FTE funds generated by these students to the residential facility. What changes need to be made to this agreement to comply with the new legislation?**

The agreement should indicate that the district will only claim and forward FTE funds for resident students. The residential facility will need to bill the placing authority for nonresident students.

**E-3. Can a district choose not to provide educational services to nonresident students at residential facilities?**

The Individuals with Disabilities Education Act (IDEA) 2004 requires that states provide a free appropriate public education to all children with disabilities between the ages of 3 and 21 years who are residing in the state. For parentally-placed private school students, IDEA further states that this responsibility falls to the district in which the facility is located. Districts should not deny services to nonresident students but, rather, work with the residential facility to ensure that payment for educational services is obtained from the placing authority.

Under IDEA, parentally-placed private school students are students with disabilities who are enrolled by their parents in private schools as a result of parent choice. It does not include students who are placed by an agency, even if parents initiate the request for placement. Regardless of how a student with disabilities comes to be served at a private residential facility, districts are required to spend a proportionate amount of the federal funds available to districts under Part B for all parentally-placed private school students with disabilities. This requirement is not related to the FTE restriction identified in s. 1003.57(2)(a), F.S.

## **Data Reporting Issues**

**F-1. What data should districts submit for nonresident exceptional education students served in residential facilities?**

Districts must submit data via the automated database for all students being served by the district, including nonresident students.

When submitting the Student Course Schedule for these students, 999 should be used as the FEFP Program number, indicating that the student is not eligible for FTE. FTE earned for each course should be reported using zeroes. Class minutes weekly should reflect the actual number of minutes per week that instruction is being provided.

For resident status, state/county, these students should be reported with Code 2 indicating that the Student is an out-of-state resident enrolled in the school district.

## **Billing Procedures**

### **G-1. What procedure should residential facilities use to bill the placing authority for the educational program of nonresident students?**

Residential facilities will determine how to bill the placing authority for the educational program of nonresident students. See Appendix B for a sample memo and bill from a residential facility to the placing authority.

## APPENDIX A

### CONTRACTUAL AGREEMENT BETWEEN RESIDENTIAL FACILITY NAME AND SCHOOL BOARD OF DISTRICT NAME COUNTY, FLORIDA

This Contract dated this day day of Month Year, by and between the School Board of District Name County, Florida, hereinafter referred to as the "School Board" and Residential Facility Name, hereinafter referred to as the "School."

**WHEREAS**, the School is approved by the School Board as a school conducting programs of education, training, and related services for exceptional students with disabilities; and

**WHEREAS**, the School Board agrees to provide a special program of education or training for nonresident students with disabilities as defined in section 1003.57(2)(a), Florida Statutes, who are exceptional students who have met the following criteria:

1. Students are residents of states other than Florida and are now enrolled in, or have made application for enrollment in, the District Name County School System.
2. Students have been appropriately classified as exceptional students by the District Name County School System in compliance with State Statutes and all pertinent state and local School Board rules and criteria.
3. Individual Educational Plans (IEPs) have been established for the students based on assessment results, which indicate specific educational needs, and such plans and needs are agreed upon by the parents of the students and the School Board.
4. The School Board will provide the educational component of the residential placement made by a placing authority outside of Florida. The School Board is responsible for only the educational services to the students in accordance with their current IEPs and any amendments to or renewals thereof.

#### TERM

The term of this contract shall be from start date through end date. This contract may be terminated for any reason by either party hereto at any time after giving thirty (30) days written notice or when said student is no longer enrolled at the School. This agreement shall be amended or modified only in writing and executed by both parties.

The School Board agrees to:

1. Adhere to School Board programs and procedures in the determination of eligibility of students served at the School.



2. Accept the enrollment of eligible nonresident students with disabilities at the School and provide an appropriate educational program to meet the student's needs.
3. Staff the educational program at the School with certified staff in accordance with School Board policies and procedures.
4. Provide adequate and necessary materials and supplies for the student in the program.
5. Maintain staff-student ratios to ensure that the minimum staff-student ratio necessary to provide the appropriate delivery of instruction per the student's IEP is in effect.
6. Provide the psychiatric, psychosocial, psychological evaluations, and other medical/therapeutic services noted in the IEP as part of the educational program.
7. Initiate and conduct meetings to review and revise the student's IEP. The School Board and the parent or placing authority must be involved in any decision about the student's IEP and agree to any proposed changes to the plan before those changes are implemented.
8. Initiate and conduct three-year evaluations required by State Board Rule 6A-6.0331(7).
9. The School Board does hereby agree to indemnify, save harmless, and defend the School from any and all claims, suits, actions, damages, or causes of action, which may arise out of the performance or non-performance of this agreement, and any finding that it has failed to administer to all or any portion of the students' IEP.

The School agrees to:

1. Pay the School Board for the educational costs of nonresident students according to the matrix level for the student as calculated using the Nonresident Revenue Estimate Worksheet found at the Florida Department of Education Web site. The School shall pay the district monthly in ten (10) equal payments.
2. Provide an appropriate classroom facility and educational environment.
3. Comply with state laws and administrative regulations prescribing health and safety standards applicable to the School and supply to the Board a copy of current certification as verification of compliance.
4. Comply with applicable provisions of the Civil Rights Act of 1964, Title IX, of the Education Amendments of 1972, and Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, the Individuals with Disabilities Education Act (IDEA) and related regulations, and ensures that it does not and will not discriminate against any student because of or on the basis of gender, race, color, religions, ethnic or

national origin, political beliefs, marital status, age, sexual orientation, social and family background, linguistic preference, or disability. The School shall at all times comply with local and state standards for health and safety of the student, whichever are more stringent.

5. Refer any complaints to or grievances regarding the provision of Exceptional Student Education services, which are brought to the attention of the School to the School Board immediately for proper action by the School Board.
6. Maintain the confidentiality of student records pursuant to federal and state law.

In the event that any part, term, or provision of this agreement is by a court of competent jurisdiction found to be illegal, unenforceable, or in direct conflict with federal, state, or local laws, the validity of the remaining portions and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this agreement did not contain a particular part, term, or provision held to be so invalid.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seal the day and the year first hereinabove set forth.

**RESIDENTIAL FACILITY  
NAME**

**SCHOOL BOARD OF DISTRICT NAME  
COUNTY, FLORIDA**

By: \_\_\_\_\_  
Administrator                      Date

By: \_\_\_\_\_  
Superintendent                      Date

Attest: \_\_\_\_\_  
Date

Attest: \_\_\_\_\_  
Date

## APPENDIX B

TO: Placing Authority (Parent, Agency)

FROM: Administrator, Residential Facility

DATE: Month, Day, Year

SUBJECT: Nonresident Tuition as per Section 1003.57(2)(a), Florida Statutes

In accordance with Section 1003.57(2)(a), Florida Statutes, please see enclosed invoice for the educational costs of nonresident tuition for the 2006-07 school year for student(s).

The student(s) with disabilities listed are receiving educational services at our facility, having been placed here by (parent or agency name). Under Florida law, the cost of the educational program for nonresident students with disabilities is to be provided by the placing authority in the student's state of residence.

Nonresident students are defined as students whose parents are not residents of the state of Florida. Section 1000.21, Florida Statutes, defines a parent as "either or both parents of a student, any guardian or a student, any person in a parental relationship to a student or any person exercising supervisory authority over a student in place of the parent." Noncustodial parents or parents whose parental rights have been terminated are not considered parents.

Please make the check for the amount due payable to residential facility name and send to the attention of contact person's name.

Enclosure: Invoice

## INVOICE

Invoice #: \_\_\_\_\_

Student Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

School Year: \_\_\_\_\_



Jeanine Blomberg  
Commissioner of Education