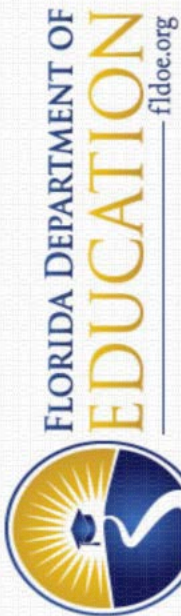


**2015-16 Exceptional Student Education  
Monitoring and Assistance  
On-Site Visit Report**

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**Pinellas County School District  
December 1-3, 2015**



This publication is produced through the Bureau of Exceptional Education and Student Services (BEESS), Division of K-12 Public Schools, Florida Department of Education, and is available online at <http://www.fldoe.org/ease/mon-home.asp>. For information on available resources, contact the BEESS Resource and Information Center (BRIC).

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September 19, 2016

Dr. Michael A. Grego, Superintendent  
Pinellas County School District  
301 4th Street Southwest  
Largo, Florida 33770

Dear Superintendent Grego:

The Bureau of Exceptional Education and Student Services (BEESS) is pleased to provide you with the 2015-16 Exceptional Student Education (ESE) Monitoring and Assistance On-Site Visit Report for the Pinellas County School District. This report was developed by integrating multiple sources of information related to an on-site monitoring visit to the Sabal Palms Health Care Center on December 1-3, 2015. Those information sources included student record reviews, interviews with district and school-level staff, and classroom walk-through visits.

The Sabal Palms Health Care Center was selected in an effort to continue to monitor the educational status of students with disabilities who are living in nursing homes or skilled medical facilities in the state of Florida. Ms. Sherry Aemisegger, Executive Director of ESE, and her staff were very helpful to BEESS in preparing for the on-site visit and throughout the visit. In addition, school-level personnel welcomed the on-site team members and demonstrated a continued commitment to the education of students in the school district. This report will be posted on the BEESS website and may be accessed at <http://www.fldoe.org/ease/mon-home.asp>.

Thank you for your commitment to improving services to exceptional education students in the Pinellas County School District. If there are any questions regarding this report, please contact me at 850-245-0475 or via email at [monica.verra-tirado@fldoe.org](mailto:monica.verra-tirado@fldoe.org).

Sincerely,

Monica Verra-Tirado  
BEESS

Enclosure

cc: Sherry Aemisegger  
Mistine Dawe  
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Bureau of Exceptional Education and Student Services

**2015-16 Exceptional Student Education  
Monitoring and Assistance  
On-Site Visit Report**

**Pinellas County School District**

**December 1-3, 2015**

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**2015-16 Exceptional Student  
Education Monitoring and  
Assistance  
On-Site Visit Report**

**Pinellas County School**

**District December 1-3, 2015**

**Authority**

The Florida Department of Education (FDOE), Bureau of Exceptional Education and Student Services (BEESS), in carrying out its roles of leadership, resource allocation, technical assistance, monitoring and evaluation, is required to oversee the performance of district school boards in the enforcement of all exceptional student education (ESE) laws (sections 1001.03(3), 1003.571 and 1008.32, Florida Statutes [F.S.]) and rules. One purpose of the Individuals with Disabilities Education Act (IDEA) is to assess and ensure the effectiveness of efforts to educate children with disabilities (s. 300.1(d) of Title 34, Code of Federal Regulations [CFR]). BEESS is responsible for ensuring that the requirements of IDEA and the educational requirements of the state are implemented (34 CFR §300.149(a)(1) and (2)).

In fulfilling this requirement, BEESS monitors ESE programs provided by district school boards in accordance with ss. 1001.42, 1003.57 and 1003.573, F.S. Through these monitoring activities, BEESS examines records and ESE services, evaluates procedures, provides information and assistance to school districts and otherwise assists school districts in operating effectively and efficiently. The monitoring system is designed to facilitate improved educational outcomes for students while ensuring compliance with applicable federal laws, regulations, state statutes and rules.

BEESS conducted an on-site visit to this children's skilled nursing facility for students who are medically fragile to ensure that specially-designed services are being provided in the least restrictive environment (LRE).

**ESE Monitoring and Assistance Process**

In a letter dated September 14, 2015, the Superintendent of the Pinellas County School District was informed that BEESS would be conducting a monitoring and assistance on-site visit related to the school district's ESE program at the Sabal Palms Health Care Center (hereafter referred to as Sabal Palms).

**On-Site Activities**

**On-Site Visit Team**

The following bureau staff members conducted the monitoring and assistance for the on-site visit:

- Diana McLendon, Program Specialist, Instructional Support Services
- Dianne Mennitt, School Nurse Consultant, Student Support Services
- Annette Oliver, Educational Program Director, Program Accountability, Assessment and Data Systems
- Liz Conn, Program Director, Dispute Resolution and Monitoring

## **The Children's Center at Sabal Palms** (Source: <http://sabalhcc.com/>.)

At the Children's Center at Sabal Palms, there is a staff who are professionally certified and who provide educational programs in an atmosphere that is nurturing and supportive, which includes the following:

- Pediatric nursing 24 hours per day
- Pediatric respiratory therapists 24 hours per day
- Physical, occupational, and speech and language therapies provided by pediatric therapists
- Educational opportunities available through transportation to local schools or through the homebound or hospitalized (HH) program
- Designed and decorated specifically for children in its entirety
- Playroom with aquarium
- Family support in caring for children
- Overnight accommodations for parents available on campus
- Every bed space has a window view with ample room to store extra-special, personal treasures, as well as all life-support equipment
- Bedroom ceilings are decorated with hand-painted murals that help stimulate the children while in bed

The Pediatric Unit at Sabal Palms is equipped to handle a wide range of infants and children who are medically complex and dependent on technology to continue to grow and develop.

Some of the services provided include:

- Ventilator weaning and management
- Care after near-drowning accidents
- Care for multiple-trauma injuries
- Care for closed head injuries
- Care for severe seizure disorders

### **Data Collection**

- District-level interview – seven participants (prior to on-site visit)
- School-level interviews – 11 participants
- School walk-through visits at Paul B. Stephens School – 10 classrooms
- School walk-through visits at Sabal Palms – 33 students who received their educational services in a one-on-one setting with their teachers. These services were provided in a classroom or private area within the facility, or at the student's bedside.

### **School Visited**

In addition to visiting Sabal Palms to monitor students receiving educational services through the HH program at the facility, BEESS staff visited Paul B. Stephens School to monitor students who reside at Sabal Palms and are transported to this school to receive their educational services.

### **Review of Records**

Individual educational plans (IEPs) for 37 students with disabilities enrolled in prekindergarten through Grade 12 in the Pinellas County School District were reviewed regarding procedures related to determining least restrictive placement and eligibility of students who are HH. The

district was asked to provide the following documents for each student record selected for review:

- Current IEP
- Signature page of current IEP
- Meeting invitation(s), if applicable
- Medical information regarding the educational placement
- Additional supporting documentation, as needed

Information from each document was used to determine compliance with those standards most likely to impact the provision of ESE services in the LRE.

## **Interviews Conducted**

### **District-level Interview**

On November 9, 2015, the following staff participated, via telephone, in an administrative interview related to the on-site visit:

- Sherry Aemisegger, Executive District Director, ESE
- Natasha Belilchka, Director of Nursing, Sabal Palms
- Justin Brett, Assistant Pediatric Manager, Sabal Palms
- Gail Cox, Principal, Paul B. Stephens School
- Mistine Dawe, District Coordinator, HH Services
- Laura Bluett, District Supervisor of Compliance, ESE
- Mark Moyer, Administrator, Sabal Palms

During the interview the following information was shared:

- The students at Sabal Palms are medically fragile. They live at Sabal Palms because they have had life-changing events, congenital disorders, their families are no longer able to take care of them at home, or they have a progressive disease that is disabling them due to head trauma or severe cerebral palsy. Some are in a comatose-type state.
- The majority of the students at Sabal Palms have medically complex conditions, such as students with a tracheostomy, gastrostomy tube or jejunostomy tube.
- The majority of the students are non-ambulatory, have monitoring equipment at all times, and receive technology assistance as well as technological interventions.
- At Sabal Palms, educational services for most of the students, through graduation, are delivered by three teachers who are funded through the Pinellas County School District.
- Four students who live at Sabal Palms attend Paul B. Stephens School.
- Before the students at Sabal Palms turn 21 years old, they each have a transition plan in place.
- Students receive HH services based on the IEP team's recommendation. The frequency and duration for these services is based on the student's need. The IEP teams and the students' care plan teams work together to decide if and when a student is able to attend school away from the facility, such as at Paul B. Stephens School.
- Paul B. Stephens School has on-site nurses, which include a nursing supervisor, one registered nurse, two licensed practical nurses and one certified nursing assistant.
- There are interdisciplinary teams at Sabal Palms that manage the medical, social and educational needs of each student. Each care plan team meets quarterly, and includes the physician, social workers, nurses, therapists and teachers. Parents or guardians are invited to attend the quarterly care plan team meetings.



- Agencies involved with Sabal Palms include: Agency for Persons with Disabilities; the ARC of Florida; Children's Medical Services; Florida Agency for Health Care Administration; Sunshine Well Care; and Children's Medical Services.

### **School-level Interviews (Sabal Palms)**

The students' teachers provided the following information:

- The LRE for educational services is determined by the interdisciplinary care plan team in conjunction with the IEP team. Parents are strongly encouraged to participate. They are invited to participate by telephone if they are unable to attend in person.
- The students have an opportunity to participate in inter-generational activities at Sabal Palms, and some students participate in activities in the community.
- Sabal Palms partners with a high school youth group. High school students come to the facility after school to play video games with the students.
- There is a preschool program located on Sabal Palms' property for students with disabilities and non-disabled students. The nondisabled preschool children from the preschool program play with the younger students at Sabal Palms. They do activities together on the playground, including feeding the animals in the pond on the property.
- There is a therapy pool at Sabal Palms that is used for occupational therapy (OT) and physical therapy (PT). There is also a PT and OT gym at the facility.
- Sabal Palms sponsors family events, which include holiday celebrations and graduation ceremonies. The students dress up and parents and guardians are invited to attend. Graduation ceremonies include caps and gowns, and the families take pictures with their children.
- Sabal Palms is a family-oriented facility that can accommodate families for overnight visits.
- The facility has a therapy dog.
- The teachers use a hands-on, multisensory approach for students who are visually impaired.
- Sabal Palms' educational program is very technologically rich. Assistive technology is individualized. Different kinds of switches are used by all students to answer questions, speak for them and to turn the pages.
- There is supported employment for students aged 18-22 years in the extended transition program.
- All of the students at Sabal Palms are enrolled in access courses and take the Florida Standards Alternate Assessment (FSAA).

### **School Walk-Through Visit (Sabal Palms)**

- Staff were very interactive with the students and other residents throughout the day.
- Academic schedules were flexible, based on the students' medical needs. If the class schedule was changed, time with the students was made up.
- When needed, the teachers conducted classes at the students' bedsides.
- The teachers used many different types of manipulatives when working with the students and included lessons using different sensory modes.
- The teachers used traveling carts that contained assistive technology devices and lesson plans. This type of system ensured that the lessons were multisensory, and it allowed for other students and staff to be involved during the class time.
- Parents and other family members were observed interacting with the students throughout the facility.

- The teachers demonstrated a great amount of respect for the students in the way they communicated with them during educational activities.

### **School-level Interviews (Paul B. Stephens School)**

- Many of the students at this school are medically fragile. The school employs five nurses, including a head nurse. There is one nurse for each hallway.
- Aides ride the buses with the students from Sabal Palms to Paul B. Stephens.
- The school employs a vision teacher and uses an ophthalmologist for consultations. Classroom environmental assessments are done, including an assessment of the lighting.
- All students receive a free breakfast at this school.
- Agencies that support the school include the Civitan Club and the Knox Foundation.
- The school has a studio where students produce a morning news show.
- Classrooms have the Communications Bill of Rights posted on the walls.
- Each hallway has a kitchen for students for cooking classes that incorporate academic instruction. Accommodations for using kitchen appliances include assistive technology switches.
- There is a fitness room adjacent to the gym, and a pool at the school. The pool is used to teach one-on-one swimming lessons.
- Individual OT and PT treatment rooms and a therapy gym are used for OT and PT programs.
- The garden in the front of the school includes a swing for wheelchairs. The certified horticulturist is also a certified elementary school teacher. She uses the garden in curriculum lessons.
- Many of the classrooms have mirrors to accommodate varying visual fields.
- A therapy dog travels around the school.
- The school has a variety of fund-raising activities. One recent activity included the “Ice Bucket Challenge,” in which teachers raised money and donated the proceeds to pay for equipment in the sensory rooms.
- Each student has a binder that describes activities that match the student’s IEP.
- The teachers use a data coach to document progress monitoring. They use data charts and instructional coaching to monitor the students’ coursework (pre- and post-testing).
- All of the students from Sabal Palm that attend this school are enrolled in access courses and take the FSAA.
- The school provides transportation Monday-Thursday to enable students participating in the extended transition program to access the community. One student in the transition program works at the school.
- Seventy-five students were expected to perform in the holiday program. The current school year’s theme, “Road Trip to Success,” was being incorporated into the holiday program.
- The students have an opportunity to participate with nondisabled students from other schools (e.g., Best Buddies Program). Nondisabled students volunteer during the extended school year classes.

### **School Walk-Through Visit (Paul B. Stephens School)**

- Students observed in the classrooms were actively involved in the learning process. They were given prompts and cues to perform the educational activity.
- In each classroom, there were pictures of the students with their names and mode of

communication.

- The classrooms have a lift system to provide students with access to the SMART Board to physically participate in the educational activities.

## Commendations

1. Sabal Palms and the Paul B. Stephens School have developed a collaborative partnership in ensuring that students at Sabal Palms attend the school, as appropriate.
2. As residents, students participate in weekly activities that are sponsored by the therapeutic recreational program at Sabal Palms.
3. Master recreational calendars are posted throughout the facility for all activities, including intergenerational activities. These calendars are available to the parents and visitors at the facility.
4. A comprehensive newsletter, called Good Life at Sabal Palms, is shared with parents and guardians of the residents.
5. Sabal Palms offers a variety of therapies and multisensory activities to the students, including activities in a therapy pool. A music therapist visits weekly to collaborate with the recreational therapists and teachers to incorporate music therapy into their lessons and activities.
6. Sabal Palms offers intergenerational activities, as well as opportunities for the younger children to interact with the children in the voluntary preschool education program on the property.
7. Sabal Palms staff actively pursue grants to obtain assistive technology needed in the educational programs.
8. In addition to the IEP team meetings, Sabal Palms has quarterly interdisciplinary care plan team meetings for each student. Every child is assessed twice a year by the child multidisciplinary assessment team. These three types of meetings assist in ensuring that educational needs, including LRE, are addressed.

Next Steps	
<b>LRE</b>	
Summary	<ol style="list-style-type: none"><li>1. Students with disabilities must be served in the regular education environment unless the nature or severity of the disability is such that education in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. (Title 20, United States Code (U.S.C.), section 1412(a)(5)(A))</li><li>2. At Sabal Palms, all of the residents need medically-complex support, which affects their ability to attend classes outside the facility. During this visit, four students were attending Paul B. Stephens School, and there were plans to transition two more students to this school within a month.</li><li>3. The facility has committed to increase the number of students who will transition to public school, based on the level of care that each child needs, including the LRE for educational services.</li><li>4. Written parental consent on the form entitled, <i>Appendix D, Florida</i></li></ol>

<b>Next Steps</b>	
<b>LRE</b>	
	<p><i>Department of Education, Parent Consent Form/Prior Written Notice Student Placement in an Exceptional Education Center</i> must be obtained for placement in an ESE center school, except in circumstances related to violations of the district's code of conduct regarding weapons, possession or use of illegal drugs, and serious bodily injury. (Sections 1003.57(1)(h) and 1003.5715 (2), F.S., Rule 6A-6.03028(3)(b), Florida Administrative Code (F.A.C.))</p> <p>During a review of the records, it was noted that <b>not</b> all students' files contained the required parental consent forms.</p> <p>5. The parent, legal guardian, or primary caregiver must sign a parental agreement concerning HH policies and parental cooperation. (Rule 6A-6.03020(3)(c) and (7), F.A.C.)</p> <p>During a review of the records, it was noted that <b>not</b> all students' files contained the required parental agreement forms.</p>
Recommendation	Sabal Palms should continue to review students' medical and educational needs on a routine basis to determine the LRE for each student.
Required Action	The Pinellas County School District must review files of all current students residing at Sabal Palms, and obtain parental consent regarding the abovementioned forms. Documentation that this has been completed for each student must be submitted to the district's BEESS liaison by <b>September 30, 2016</b> .

## Technical Assistance

1. **Implementing a Multi-Tiered System of Support for Behavior: Recommended Practices for School and District Leaders** (Florida's Positive Behavior Interventions and Supports Project) may be accessed at [http://flpbs.fmhi.usf.edu/pdfs/RTIB%20Guide%20101811\\_final.pdf](http://flpbs.fmhi.usf.edu/pdfs/RTIB%20Guide%20101811_final.pdf). This provides an overview of the critical components of an Multi-tiered System of Supports (MTSS) for behavior. These critical components describe systems changes that are necessary for a results-driven ESE system.
2. **Developing Quality Individual Educational Plans: A Guide for Instructional Personnel and Families**, may be accessed at <http://fldoe.org/core/fileparse.php/7690/urlt/0070122-qualityieps.pdf> on the BEESS's website. Explanatory information to help students understand the rights and responsibilities that go along with special education services can be found in "Chapter 8 – Procedural Safeguards (Rights and Responsibilities)" of A Parent's Instruction to Exceptional Student Education in Florida, located at <http://fldoe.org/core/fileparse.php/7690/urlt/0070085-eseparent.pdf>. This document is also available in Spanish and Creole on the BEESS's website.
3. **Least Restrictive Environment Considerations Related to Individual Educational Plans**, may be accessed at <http://info.fldoe.org/docushare/dsweb/Get/Document-7540/dps-2016-13.pdf> on the BEESS's website. Provision of services for students with disabilities in the LRE is a critical component of the IDEA. Students with disabilities must be served in the regular education environment unless the nature or severity of the disability is such that education in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. The decisions regarding the educational placement, including participation in nonacademic and extracurricular activities, of each student with a disability must be based on the individualized needs of each student as determined and documented through the individual educational plan process.
4. **The Policies and Procedures Manual, Hospital/Homebound Program and Services**, may be accessed at <http://fldoe.org/core/fileparse.php/7590/urlt/hhppm08.pdf>. This resource manual is designed to provide the school districts in Florida with recommendations and suggestions for the development, management, and evaluation of programs for HH students. It is intended to help bring clarity and direction to educational planning for exceptional students in Florida, while being broad enough in scope to meet the varying needs of the students and HH staff in each school district.



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

April 26, 2016

Dear Colleague:

I write today regarding the responsibilities of States, school districts, and other public agencies in addressing the special educational needs of children with disabilities who reside in nursing homes. Although their numbers are small,<sup>1</sup> their medically complex conditions present unique challenges. In addition, because these children live away from their families, and may enter nursing homes from a hospital or through a child welfare or health agency, they may not always be known to responsible educational authorities or be receiving appropriate educational services. States are required under Part B of the Individuals with Disabilities Education Act (IDEA or Part B) to make available to all children with disabilities a free appropriate public education<sup>2</sup> (FAPE), which emphasizes special education and related services that, among other things, are designed to meet the unique needs of each child, including those children residing in nursing homes. In 2014, the U.S. Government Accountability Office (GAO) highlighted some of the unique educational challenges that may arise in serving this unique population in its report, *Special Education: Additional Federal Actions Could Help Address Unique Challenges of Educating Children in Nursing Homes* (GAO 14-585).<sup>34</sup> Based on the observations and findings made by GAO in this report, the Office of Special Education and Rehabilitative Services (OSERS) recognizes that there is a need for further guidance to ensure that children with disabilities who reside in nursing homes are evaluated in a timely manner and receive appropriate special education and related services. Accordingly, OSERS is issuing this letter to clarify that children with disabilities residing in nursing homes and their parents have the same rights under IDEA that apply to all other IDEA-eligible children, and to highlight some of the IDEA requirements that are especially relevant to the needs of this unique

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<sup>1</sup> According to the Department of Health and Human Services (HHS), children represented less than a half a percent (0.2 percent) of the more than 1.4 million nursing home residents in the United States as of December 31, 2011. See: HHS's Centers for Medicare & Medicaid Services' *Nursing Home Data Compendium*, 2013 available at:

[https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandCompliance/Downloads/nursinghomedatacompendium\\_508.pdf](https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandCompliance/Downloads/nursinghomedatacompendium_508.pdf).

<sup>2</sup> Under Part B of IDEA, a child's entitlement to FAPE begins at the child's third birthday and could last to the 22nd birthday, depending on State law or practice. 34 CFR §300.102.

<sup>3</sup> This report is available at: <http://www.gao.gov/products/GAO-14-585>. Among other things, GAO found that the child find requirement under IDEA and the responsibility for providing special education services was divided generally evenly among the States between the school district where the child's family resides and the school district where the nursing home is located. Additionally, GAO found that a child's medical fragility affected the amount of instructional time they received.

<sup>4</sup> MARYLAND AVE., S.W. WASHINGTON, D.C. 20202-2600 [www.ed.gov](http://www.ed.gov)

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

population. This letter will also identify best practices to assist States and their public agencies in meeting the unique educational needs of these children.

## **Child Find and Evaluations**

Under IDEA and its implementing regulations, each State and its local educational agencies (LEAs) must have in effect policies and procedures to ensure that all children with disabilities residing in the State who need special education and related services, regardless of the severity of their disability, are identified, located, and evaluated. 34 CFR §§300.111 and 300.201. This requirement, known as child find, applies to all children suspected of having disabilities under IDEA, including those who have complex medical needs and who reside in nursing homes because of serious health problems. The IDEA child find requirements permit referrals from any source, including nursing home staff, who suspects a child may be eligible for special education and related services. In general, if a public agency suspects that a child in a nursing home has a disability and needs special education and related services, an initial evaluation that meets the requirements in 34 CFR §§300.304-300.311 must be conducted within 60 days of receiving parental<sup>5</sup> consent for the evaluation or, if the State establishes a timeframe within which the evaluation must be conducted, within that timeframe. 34 CFR §300.301(c)(1).<sup>6</sup> Among other requirements, the evaluation must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent. This information may assist in determining whether the child is a child with a disability, as defined in 34 CFR §300.8, and the content of the child's individualized education program (IEP). 34 CFR §300.304(b)(1); see also 34 CFR §300.304(c)(4) (assessing the child in all areas related to the suspected disability, as appropriate). Additionally, in interpreting evaluation data for the purpose of determining if a child is a child with a disability and the child's educational needs, the public agency must draw upon information from a variety of sources, including parent input, as well as information about the child's physical condition. 34 CFR §300.306(c)(1). Therefore, a parent may choose to share with the public agency an evaluation conducted by nursing home staff or other medical professionals about the child's health and physical condition.

## **State Responsible for Child Find**

Under Part B of IDEA, the State where the child's parents reside is responsible for conducting child find, including individual evaluations, and ensuring that FAPE is provided to an eligible child. Generally, States assign this responsibility to the school district where the child's parents reside.<sup>7</sup> If the nursing

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<sup>5</sup> As defined in 34 CFR §300.30, parent means a biological or adoptive parent of a child; a foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent; a guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State); an individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or a surrogate parent who has been appointed in accordance with 34 CFR §300.519 or section 639(a)(5) of IDEA.

<sup>6</sup> The evaluation timeframe does not apply if a child is moved to a nursing home in a new school district after the relevant timeframe has begun and prior to a determination by the child's previous public agency or school district whether the child is a child with a disability under Part B. 34 CFR §300.301(d). In this situation, the new public agency or school district may extend the 60-day or State-established timeframe only if: (1) it is making sufficient progress to ensure prompt completion of the evaluation; and (2) the parent and the new public agency agree to a specific time when the evaluation will be completed. 34 CFR §300.301(e).

<sup>7</sup> Office of Special Education Programs (OSEP) Letter to Biondi, Oct. 7, 1997.

home is located in the State where the child's parents reside, but is within another school district within the same State, the State would need to determine whether it would be appropriate for the school district of the parents' residence to conduct child find; or the State could assign that responsibility to the school district where the nursing home is located, if the school district where the child's parents reside has not yet conducted or completed the evaluation. There also could be situations where the nursing home in which the child resides is located in a State that is different from the State of the parent's residence. In these circumstances, the Department's long-standing position is that it is residence that creates the duty under the statute and regulations to make FAPE available, not the location of the child or school. Accordingly, if a child is placed or referred outside the State by an educational or noneducational State or local agency, such as a child welfare, social service, or other similar State agency, whether for educational or treatment reasons, the State initiating the placement or referral (i.e., the "placing State") is responsible for ensuring that the child receives FAPE.<sup>8</sup> This responsibility would include conducting child find. Therefore, the State where the nursing home is located would need to coordinate with the placing State once the child is identified to determine how the evaluation will be conducted. The placing State could either contract with the school district where the nursing home is located to conduct the evaluation, or ensure that the evaluation is conducted through some other arrangement.

When considering best practices related to child find, it is important to note that nothing in IDEA requires that an evaluation of a child suspected of having a disability take place in a school setting. If the child's suspected disability involves a medical condition which would make it difficult for the child to take certain tests or complete parts of the evaluation in a school setting, the evaluator may work with the child's parents and doctors to determine what would be an appropriate setting to conduct the evaluation. In general, the public agency may not refuse to conduct the evaluation because the child is unable to come to a school setting for the evaluation.<sup>9</sup>

## **Provision of Special Education and Related Services**

After a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child within 30 days of the eligibility determination. 34 CFR §300.323(c)(1).<sup>10</sup> As stated above, under Part B of IDEA, the school district in the placing State where the parent resides is responsible for ensuring that FAPE is provided to the child if the nursing home is located in a school district in a different State; however, the placing State could arrange for the school district where the nursing home is located to be responsible for the provision of special education and related services to the child. Even if this were to occur, we emphasize that the placing State retains ultimate responsibility for ensuring the provision of FAPE to its resident children with disabilities whom the State places or refers to nursing homes located in another State. 34 CFR §300.149. Under IDEA, in order to make FAPE available to each eligible child with a disability, the responsible public agency must ensure that an appropriate IEP is developed and implemented for the child. The child's IEP must be designed to enable the child to be involved in and make progress in the general education curriculum. 34 CFR §300.320(a)(1), (2) and (4). As is true for other children with disabilities, the IEP is developed at a meeting of the IEP Team which includes the child's parents and relevant

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<sup>8</sup> See OSEP letter to McAllister, June 9, 1994. OSEP explained in response to a subsequent inquiry that this letter does not apply if the child's parents move to another State. See OSEP letter to Moody, Oct. 24, 1995; see also 34 CFR §300.323(f).

<sup>9</sup> IDEA also includes requirements for periodic reevaluations in accordance with 34 CFR §§300.304-300.311. See 34 CFR §300.303.

<sup>10</sup> IEP requirements are at 34 CFR §§300.320-300.324.



school officials, and whenever appropriate, the child. 34 CFR §300.321(a). Also, the IEP Team could include, at the discretion of the parent or the public agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate. 34 CFR §300.321(a)(6). Thus, there are situations where nursing home personnel involved in the care of the child could be members of the child's IEP Team, provided the party (public agency or parents) who invited the individual to be a member of the IEP Team can demonstrate that the individual possesses the requisite knowledge or special expertise regarding the child. 34 CFR §300.321(c)

Once a proper IEP Team is constituted, we emphasize the importance of ensuring that individualized determinations are made as to the types and amounts of special education and related services to be provided to each child with a disability. In that regard, a State may not have a rule or policy that would restrict or limit the amount of services to be provided to children with disabilities who, because of serious health problems, must receive required special education services in a nursing home. Rather, under IDEA, the amount and types of special education and related services provided to a child must be based on the child's individual needs as set forth in the child's IEP. IDEA's definition of related services includes an array of support services that are provided if they are required to assist a child with a disability to benefit from special education. Among these are school health services and school nurse services. 34 CFR §300.34(c)(13). For example, these services could include the provision of a nurse to assist a ventilator dependent child in a school setting.<sup>11</sup>

The following best practices could assist in the implementation of these important IDEA requirements. If a child is unavailable for medical reasons during a portion of the school day, the IEP Team should discuss the time or times when services should be provided to the child. Or, for example, if a child is only able to participate in instruction for short periods of time, the IEP Team should discuss the best methods to provide the required special education and related services to the child.

## **Provision of Special Education and Related Services in the Least Restrictive Environment (LRE)**

The requirements for determining the educational placement of a child with a disability, which are included in the Part B regulations at 34 CFR §§300.114 through 300.118, are fully applicable to the education of children with disabilities residing in nursing homes. These regulations provide that to the maximum extent appropriate, children with disabilities are to be educated with children who are not disabled and that special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. The child's placement must be determined at least annually and be made by a group of persons that includes the parents and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options. Placement decisions must be made by this group of knowledgeable persons on an individual basis in light of the child's unique needs, and, unless the IEP requires a different arrangement, the child must be educated in the school he or she would attend if not disabled. We understand that children residing in nursing homes may not be able to attend the school they would attend if not placed in the nursing home. However, in these situations, the public agency still must ensure that children with disabilities residing in nursing homes are educated in the least restrictive environment appropriate to the child's

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<sup>11</sup> See Cedar Rapids Community School District v. Garret F, 526 U.S. 66 (1999).

needs, based on his or her IEP.<sup>12</sup>

As a best practice, we note that because school-age children living in nursing homes are often medically fragile,<sup>13</sup> it may be appropriate for the child's physician or other knowledgeable nursing home staff familiar with the child to be included as a member of the placement team. This team member can assist in making the determination as to whether the child is too fragile to attend a local school, and could also provide input regarding other factors that may impact placement decisions, such as the child's tolerance for being on a bus and sitting for extended periods of time.

In instances where the placement team determines the child's LRE is instruction in the nursing home, the public agency must ensure that the child receives all of the special education and related services included in his or her IEP in the nursing home. If a child is able to move throughout the nursing home, it may be possible for instruction to take place in a classroom in the nursing home. However, when a child is too fragile to be moved or if the child is prone to infections and must be isolated, the public agency may choose to provide one-on-one services in the child's room.

The IEP Team must review each child's IEP periodically, but not less than annually to determine whether the annual goals are being achieved, and revise the child's IEP, as appropriate, to address, among other matters, any lack of expected progress toward the child's annual goals, and in the general education curriculum, if appropriate. 34 CFR §300.324(b)(1)(i)-(ii). Similarly, the child's placement must be determined at least annually and must be based on the child's IEP. 34 CFR §300.116(b)(1)-(2). If a child's condition changes after the annual IEP Team meeting, it would be appropriate for the IEP Team to consider whether revisions to the child's IEP are necessary. Because the child's placement is based on the child's IEP, if the IEP is changed, the placement team may need to determine whether the child's LRE has changed, and if so, may need to make conforming changes to the child's placement. 34 CFR §300.116(a)(2). For example, if a child's condition stabilizes or improves and the child's doctor believes the child can tolerate additional instruction or be transported to a local school for instruction, the child's IEP Team may need to revise the child's IEP to determine if additional services are warranted and the placement team may need to consider whether the nursing home continues to be the least restrictive setting where the child should receive FAPE.

## **Dispute Resolution Options**

It is important to note that parents of children residing in nursing homes are afforded the same procedural safeguards and due process rights as all other parents of children with disabilities. 34 CFR §§300.500 through 300.536. Therefore, if a parent of a child residing in a nursing home disagrees with the public agency responsible for providing FAPE on any matter regarding the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child, the parent may request mediation under 34 CFR §300.506, file a due process complaint under 34 CFR §300.507 to request a due process hearing, or file a State complaint under 34 CFR §300.153.

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<sup>12</sup> See OSEP Letter to Anderson (November 30, 2012) OSEP Letter to Hungate (January 5, 2011), and OSEP Memorandum 05-08 (addressing placement requirements for children with disabilities in various residential facilities).

<sup>13</sup> Nearly 71 percent of children residing in nursing homes have at least two active disease diagnoses, according to analysis of CMS data. See United States Government Accountability Office's *Special Education – Additional Federal Actions Could Help Address Unique Challenges of Educating Children in Nursing Homes*, July 2014 available at: <http://www.gao.gov/products/GAO-14-585>.

## **Qualifications of Personnel Providing Special Education and Related Services to Children Residing in Nursing Homes**

Ensuring that personnel serving children with disabilities residing in nursing homes have the requisite qualifications is paramount. To this end, IDEA and its implementing regulations require a State to establish and maintain qualifications to ensure that personnel necessary to carry out the purposes of Part B of IDEA are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities. 34 CFR §300.156(a) and 300.201; see also 34 CFR §300.207. Therefore, States must ensure that they establish and maintain qualifications to ensure that personnel serving children with disabilities residing in nursing homes are appropriately and adequately prepared and trained, and possess the content knowledge and skills necessary to serve this unique population of children with disabilities.

## **Possible Funding Sources**

We recognize that serving children with disabilities residing in nursing homes may present unique challenges and may require some school districts to be responsible for a particularly large share of high-cost services because of the large concentrations of children with high needs in those districts. There are several ways that States can assist these school districts. Each fiscal year States may reserve a portion of their IDEA Part B funds for authorized State-level activities, other than administration. 34 CFR §300.704(b)(4). These State-level funds may be used for activities such as support and direct services, including technical assistance, personnel preparation and professional development and training, and to assist LEAs in meeting personnel shortages. 34 CFR §300.704(b)(4)(i) and (vii). To assist school districts in serving high need children with disabilities, each State has the option of establishing an LEA high cost fund and to reserve for each fiscal year 10 percent of the amount the State reserves for other State-level activities to finance and make disbursements from that fund to its LEAs. The definition of a high need child with a disability is included in the State plan for the high cost fund and must at a minimum address the financial impact a high need child with a disability has on the budget of the child's LEA and ensures that the cost of the high need child with a disability is greater than three times the average per pupil expenditure in that State. The costs associated with educating a high need child with a disability are only those costs associated with providing direct special education and related services to the child that are identified in the child's IEP. Therefore, in order for a public agency to be eligible for a disbursement from the State's high cost fund, (if the State has a high cost fund), the child must meet the State definition of high need child with a disability, and the LEA must meet the requirements included in the State's high cost plan.

## **Additional Resources**

The Office of Special Education Programs (OSEP) funds a large network of technical assistance centers that develop materials and resources to support States, school districts, schools, and teachers to improve the provision of services to children with disabilities. The U.S. Department of Education does not mandate the use of, or endorse the content of, these products, services, materials, and/or resources; however, States and LEAs may wish to seek assistance from some of the OSEP-funded technical assistance centers available at: <http://ccrs.osepideasthatwork.org> and <http://www.tadnet.org/pages/526-find-a-center>.

We encourage States and LEAs to review their policies and procedures to ensure that children with disabilities residing in nursing homes are timely identified and evaluated, and provided with the special education and related services necessary for them to receive FAPE. We ask you to share this

information with your local school districts and other public agencies to help ensure all children with disabilities, including children residing in nursing homes, receive a high-quality education. I hope this guidance is helpful to both public agencies and parents. If you have additional questions, please contact Jessica Spataro at [Jessica.Spataro@ed.gov](mailto:Jessica.Spataro@ed.gov). Thank you for your continued interest in improving results for children with disabilities.

Sincerely,

/s/

Michael K. Yudin  
Assistant Secretary

/s/

Ruth E. Ryder  
Acting Director  
Office of Special Education Programs

**Florida Department of Education  
Bureau of Exceptional Education and Student Services**

**2015-16 ESE Monitoring and Assistance**

**BEES On-Site Monitoring and Assistance Team**

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