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## **Policies and Procedures for Educating a Student with an Individualized Education Program (IEP) in a Type I or Type III Nonpublic General Education Program Approved under COMAR 13A.09.10**

### **Purpose**

The purpose of this document is to set forth policies and procedures for educating a student with an Individualized Education Program (IEP) in a Type I or Type III nonpublic general education program approved by the Maryland State Board of Education.

More specifically, the purpose of this document is to provide Type I and Type III nonpublic general education programs with direction for meeting the legal requirements pertaining to the education of the very occasional student with an IEP who is placed by an agency, other than State and/or local education agencies, in a nonpublic facility licensed by a State agency other than the Department of Education to provide care or treatment or both.

The purpose of this document is **not** to provide Type I and Type III nonpublic general education programs with a means of educating students with IEPs on a routine basis without meeting special education programming standards.

### **Background**

Type I and Type III general education programs are approved under COMAR 13A.09.10 Educational Programs in Nonpublic Schools and Child Care and Treatment Facilities. Approval to provide special education services is not included in the general education program approval.

Type I general education programs may hold approval to operate any one or combination of the following: a nursery school, kindergarten, elementary school, secondary school, a pre-GED program, a GED TESTS preparation program, a Career Development education program, a Technology education program.

Type III general education programs may hold approval to operate any one or combination of the following: a nursery school, kindergarten, elementary school and/or secondary school that continues implementation of a student's public school program; a basic skills and life skills program; a diagnostic-prescriptive educational program; a Pre-GED program; and a GED TESTS preparation program.

COMAR 13A.05.02.13A (enclosed) establishes the local school system (LSS) of the county where the facility is located as the school system responsible for educating all students with the special education needs.

On a very occasional basis, a student with an IEP may be admitted to a facility that operates a Type I or Type III general education program. The IEP of such a student usually requires partial day special education services. (Note: A student with a full day or residential IEP usually is not appropriate for admission to facilities approved to operate a Type I or Type III general education programs.)

The Office of the Attorney General has provided direction for meeting the legal requirements pertaining to the education of students with special education needs in a Type I or Type III general education program.

### **Policy**

On a case-by-case basis, a Type I or Type III general education program may legally implement the IEP of a student placed in its educational program. It is essential for a Type I or Type III general education program to adhere to the following procedures to ensure that all of the federal and State legal requirements pertaining to the rights of a student who requires special education are met.

### **Procedures**

1. Prior to the student's admission to a Type I general education program, the Type I general education program in which the student is placed, or where placement is being considered, must obtain each student's previous educational records, including the current IEP, if such exists. If previous student records are unavailable, the designated staff shall make a record of all telephone and written attempts to secure the student's previous educational records.
2. Within 5 days of a student's admission to a Type III general education program, the Type III general education program in which the student is placed must obtain all of the educational information from an official of the previous school in writing or via the telephone. This information must include the current IEP, if such exists. If previous student records are unavailable, the designated staff shall make a record of all telephone and written attempts to secure the student's previous educational records.
3. If a determination is made that an enrolled student has a current IEP, the Administrative Head of the Type I or Type III general educational program must correspond with the appropriate personnel of the LSS in the county in which the educational program is

Educating a Student with an Individualized Education Program (IEP) in a Type I or Type III  
Nonpublic General Education Program

January 8, 2003

Page 3

located regarding the student's enrollment, and must request an IEP team meeting. The IEP of the student must be attached to the letter. This written request must be made on the 11<sup>th</sup> day of the student's enrollment or as soon thereafter as is feasible. (See Attachment 1.)

State regulation requires that the local school system where the facility is located to hold an IEP meeting. The meeting is to be convened according to the procedural safeguard requirements set forth in COMAR 13A.05.01 Educational Programs for Students with Disabilities.

In the meantime, the student may be enrolled in the general education program on an interim basis implementing the IEP to the extent feasible within the resources of the facility.

4. Based upon a review of the student's IEP and the ability of a Type I or Type III general education program to implement the student's IEP, the IEP team may determine any of the following:

- a.) The nonpublic Type I or Type III general education program can implement the student's IEP. Factors such as a low student to teacher ratio and the individualized nature of the Type I or Type III general education program should be considered.

**Note:** The Type I or Type III general education program continues to be approved by the Maryland State Board of Education to operate a general education program. It does not become a special education program because it is implementing a student's IEP. It remains a general education program, which, by virtue of its distinctive programmatic aspects, can implement the IEP of a student for whom the IEP team has made this determination.

- b.) Special education and related services, in addition to those general education services provided by the Type I or Type III general education program, must be provided by the LSS on the grounds of the Type I or Type III general education facility while the student is enrolled; or
- c.) The IEP will be implemented in a public school special education program or an approved nonpublic school special education program.

**Note:** The IEP team's documentation of its meeting must reflect its decision regarding implementation of the IEP. A copy of this documentation must be maintained by the Type I or Type III general education program.

Educating a Student with an Individualized Education Program (IEP) in a Type I or Type III  
Nonpublic General Education Program

January 8, 2003

Page 4

5. Annually, or as appropriate, the IEP team of the LSS must meet again to reassess the student's education progress and needs. A determination must be made about which, if any, special education and related services will be required to meet the student's educational needs. If no special education services are needed, the IEP team may dismiss the student from special education.
6. At all times, federal and State procedural safeguards remain in effect, and the student's parent(s)/guardian(s) should be involved in the process and must be apprised of their rights. It is the responsibility of the LSS where the facility is located to ensure that this procedural safeguard and all other procedural safeguards are provided to students and their parent(s)/guardian(s).
7. Special requirements pertain to students who have officially withdrawn from (dropped out of) their home school prior to placement in the facility's Type I or Type III nonpublic general education program. In this case, the Type I or Type III general education program must offer to facilitate the implementation of the student's IEP in compliance with #1-6 above.

If the student's parent/legal guardian does not want their child to receive special education services based on the IEP that was current at the time the student left school, the nonpublic school must write a letter to the student's parent/legal guardian reiterating the decision of the parent/legal guardian not to have their child's IEP implemented. The letter must state that the student and/or parent/legal guardian has, therefore, waived his/her rights to any further special education services. A copy of this letter must be sent to the Office of Special Education of the LSS where the student resides, the student's parent(s)/legal guardian(s), and the placing agency.

Enclosure: Education Article, §4-122, Annotated Code of Maryland

Attachment 1: Letter to Director, Office of Special Education, LSS where Facility is  
Located

4/22/99

10/16/02 (revised)

1/7/03 (revised)