



# Serving Students with Disabilities in Private Facilities

Technical Assistance Document

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**PUBLIC SCHOOLS OF NORTH CAROLINA**  
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# **Technical Assistance for Serving Students with Disabilities in Private Facilities**

## **Introduction**

According to *North Carolina Policies Governing Services for Children with Disabilities*, it is the responsibility of the State Education Agency (SEA) to ensure the Local Education Agencies (LEAs) compliance when a child with a disability is placed in or referred to a private school or facility by the LEA [NC 1501-7.2 (a)(b) and (c)].

## **LEA Placement in Private Schools or Facilities**

At times, LEAs must consider whether or not private placement is necessary to provide a free, appropriate, public education (FAPE) to a student with a disability. To support LEAs with ensuring private schools or facilities can provide services to exceptional children, the Exceptional Children Division has monitored and maintained a list of Non-Public Schools with Approved Exceptional Children Programs. Over time, fewer and fewer private schools have requested EC Program Approval; therefore, the list of approved programs has dramatically decreased. Unfortunately, this has potentially limited contracting options for LEAs.

Therefore, the EC Division is providing two options to assist LEAs in identifying and selecting a private school or facility if required to provide FAPE.

Option #1: The LEA may continue to select a non-public school from the list of Non-Public Schools with EC Program Approval listed below and posted on the EC Division website. This list will be maintained as long as non-public schools/facilities seek approval from the EC Division.

Option #2: The LEA may select a private school/facility, determine whether or not the program will meet the requirements of FAPE for the student(s) for whom the placement is being considered, and routinely monitor the provision of FAPE for the student(s) placed in the private program.

If this option is selected, the EC Division will include this student(s) in its monitoring sample for the LEA's routine Program Compliance Review that occurs on a five-year cycle. Additionally, consistent with any placement of a student in a private program or facility by the LEA, the student is protected by the procedural safeguards and a state complaint can be filed if there is a dispute about the provision of a FAPE.

## **State Guidelines for Option #2 Determination**

The LEA is responsible for verifying that the private school or facility meets federal regulations and state policies for the provision of special education and related services. The following requirements must be used in the LEA's evaluation and assurance that the private school or

facility meets the requirements as outlined in this guidance document. A template of the requirements has been developed and can be found in the appendix.

**1. Non-Public School Recognition**

Each Non-Public School must be registered and recognized as a private school by the Division of Non-Public Education (DNPE), as appropriate. Non-Public School information can be found at - <http://ncadmin.nc.gov/about-doa/divisions/division-non-public-education>

**2. Licensed by DHHS**

Each mental health facility must be licensed by the Department of Health and Human Services, as appropriate. A list of licensed facilities can be found at - <https://info.ncdhhs.gov/dhsr/reports.htm>

**3. Basic Educational Program**

The basic educational program shall include course requirements and descriptions similar in format to materials previously contained in the standard course of study and it shall provide:

- a. A core curriculum for all students that takes into account the special needs of children.
- b. A set of competencies, by grade level, for each curriculum area.
- c. A list of textbooks and or instructional materials for use in providing the curriculum.
- d. Standards for student performance and promotion based on the mastery of competencies, including standards for graduation, that take into account children with disabilities and, in particular, include appropriate modifications.
- e. A program of remedial education, as appropriate.
- f. Required support programs.
- g. A definition of instructional day.
- h. Class size recommendations and requirements.
- i. Prescribed staffing allotment ratios.
- j. Material and equipment allotment ratios.
- k. Facilities guidelines that reflect educational program appropriateness.
- l. Any other information the Board considers appropriate and necessary.

Source: Public School Laws of North Carolina Annotated §115C-81.5(b)

**4. Instructional Time**

Adequate time for instruction is provided during the regular school day and throughout the school year.

- a. Non-Public Education: <https://ncadmin.nc.gov/citizens/private-school/private-schools-k-12-requirements>
- b. State Board of Education Policy: The annual school calendar provides for a minimum of 185 days and 1,025 hours of instruction covering at least nine calendar months.  
Source: Public School Laws of North Carolina Annotated §115C-84.2(1)

## **5. Instructional Environment**

The instructional environment is conducive to effective teacher-student interaction and the achievement of positive learning results.

- a. Sufficient space, furniture, and instructional equipment are provided in each instructional setting to permit positive learning results.
- b. Buildings are accessible and safe for students with disabilities.
- c. An adequate supply of appropriate instructional materials, textbooks, and supplementary resources is readily available.
- d. Class size is maintained in accordance with *North Carolina Policies Governing Services for Children with Disabilities*.

## **6. Individualized Education Program (IEP)**

Each student enrolled with a disability under IDEA has a current IEP before special education and related services are initiated and all required components of the IEP are completed.

- a. All required components are included in the IEP.
- b. If the Local Education Agency (LEA) is placing the student in the Non-Public School, the LEA must be involved in the development of the IEP as well as any reevaluation and placement decisions.
- c. Efforts to obtain parent participation in the development and subsequent reviews of the IEP are documented.
- d. Efforts to invite and obtain student participation in the development of the IEP when transition educational services are discussed, and subsequent review of the IEP are documented.
- e. Reevaluations occur at least every 3 years or more often if deemed necessary by the IEP Team.
- f. The IEP is reviewed/revised by appropriate staff, parents, and students and placement decisions are made annually.

## **7. Evaluation of Learning**

- a. A regular, standardized procedure for evaluation of student learning is in use. Progress toward IEP goals is monitored, includes data collection and communicated regularly to parents.
- b. Students with disabilities must participate in standardized assessments or statewide assessments, as required by DNPE or DPI.

## **8. Personnel Qualifications**

Special education teachers and related services personnel are qualified to carry out assigned responsibilities.

- a. Teachers hold a current license to teach in the State as a special education teacher.
- b. Related services are provided by personnel licensed or certified by the appropriate state agency or board.
- c. Access to professional development to improve competencies and skills, encourage professional growth, and address student needs is routinely available.

## 9. Physical Facilities

A safe and healthy physical environment that meets the fire, safety, and sanitation standards established by state and local authorities. Buildings and equipment used by students with disabilities are accessible.

## 10. Student Records Confidentiality

- a. A required access sheet, with signature, data and purpose, is maintained within each EC folder.
- b. The school complies with HIPPA/FERPA requirements, as required.
- c. The school maintains a written list of persons having access to the confidential educational records.
- d. Procedures are in place to provide parents and students who are at age majority the opportunity to inspect, review and copy educational records.

## 11. Federal and State Regulations

- a. A current edition of the NC *Policies Governing Services for Children with Disabilities* is available and maintained at the facility.
- b. A current edition of the *Procedural Safeguards: Handbook on Parents' Rights* is distributed to parents each school year to inform them of their procedural safeguards.
- c. The NC *Policies Governing Services for Children with Disabilities* are followed when disciplining students with disabilities.

## 12. On-Site Visits

LEA personnel must conduct an assessment of the private school or facility to ensure that all of the required components are in place.

## 13. Assurances

- Representatives of the LEA and the private facility must sign the assurances.
- These requirements must be reviewed annually each school year the student is placed in the private school or facility by the LEA.

**Note:** A checklist and assurances have been developed with the requirements and will serve as resources for the LEA. These documents can be found in the appendix.

## Possible Funding Source

### NC 1506-1.9 Out-of-District Placements

Out-Of-District Placements. The State Board of Education (or its designee) may approve the use of the reserve fund toward the payment of the excess cost of the placement of a child in a program not operated by the local board of education within funds available and subject to the following conditions:

- (a) State Board of Education review reveals that the local education agency has approved alternative placement and the education agency finds it is necessary for the child to be placed in a program not operated by the local board of education in order to receive an educational program or service which will appropriately meet the child's special educational needs.

- (b) The local education agency must fund an amount equal to the sum of the following per pupil allocations:
- (1) The state's regular per pupil allocation for school-aged children;
  - (2) The state's add-on per pupil allocation for exceptional children; plus
  - (3) The federal per pupil allocation for exceptional children.
- If the sum of those per pupil allocations does not cover the cost of the alternative placement, then the reserve fund may be approved, but in no case, will the reserve fund pay more than fifty percent of the total cost of the alternative placement. Any cost then remaining must be assumed by the local education agency, using any local, state or federal funds approvable for such expenditure. Financial Services, State Department of Public Instruction, shall reimburse the local board of education for any reserve funds approved by the State Board of Education.
- (c) Funds must be used only to provide special education and related services costs; residential costs; and extended school year when it has been determined by the IEP committee that extended year is required as part of the IEP. Funds must not be used for medical, custodial, or day care services.
- (d) When a private residential placement has been determined to be the most appropriate placement for a child with a disability, all in-state residential programs should be the first consideration of placement. The local education agency should exhaust all possible in-state residential placements before placing a child out-of-state. All children placed in out-of-district school settings are entitled to the same rights and procedural safeguards as provided to those children whose IEPs are implemented in the local education agency.
- (e) Any application for a special reserve fund allocation must be submitted prior to enrolling the child in the program.
- (f) Each out-of-district placement must be reviewed annually. Continued placement must be based on the least restrictive educational placement.
- (g) All withdrawals from out-of-district placements must be reported no later than 10 days after the withdrawal has occurred. The withdrawal notification must include the child's name, date of birth, disabling condition, and date of withdrawal. Additional children cannot be placed in programs of children who have withdrawn from enrollment. A complete application for placement must be submitted to the Exceptional Children Division.
- (h) May 15th of each year is the deadline for submission of these applications

The application for Out of District Placements is located in the NCCCIP grant system.

## LEA Monitoring

### Rationale

The LEA contracts with the private placement and shall have oversight of the services provided under the contract.

### Monitoring Components

The LEA will:

- Provide a representative of the LEA for all IEP Team meetings to ensure compliance and procedural safeguards.
- Include the student data in the LEA's internal monitoring process.

- Conduct site visits and observations quarterly to ensure services are aligned to the student's current IEP.
- Verify facility license, teacher licenses, and service provider licenses prior to signing a yearly contract.
- Verify teacher license for all new teachers hired after the yearly contract is signed.
- Review budget and cost report semi-annually.
- Documentation must be maintained on file at the district level.

A directory of private schools and facilities holding current EC Program approval status can be found at - <https://ec.ncpublicschools.gov/policies/non-public-schools>

## LEA Placement in Community Based Facilities

Developmental Day Centers (DDCs) are community-based facilities licensed by the Department of Health and Human Services and can be a placement option for providing special education and related services, FAPE, to students with disabilities.

LEAs can apply and receive funding to support the costs of contracting with these facilities to provide services for students with disabilities. Consistent with its assurance that funds are being spent to provide FAPE, the LEA should conduct routine monitoring of the services provided by the facility consistent with the individualized education programs for students served in this type of placement.

The EC Division will include students served in Developmental Day Centers in its monitoring sample for the LEA's routine Program Compliance Review that occurs on a five-year cycle. Additionally, consistent with any placement of a student in a community-based facility by the LEA, the student is protected by the procedural safeguards and a state complaint can be filed if there is a dispute about the provision of a FAPE.

### Possible Funding Source

#### NC 1506-1.7 Developmental Day Centers

Developmental Day Centers.

- (a) State categorically appropriated funds will be allocated to local education agencies at a per month per child rate determined annually by the Exceptional Children Division and Financial and Personnel Services. Special developmental day center funds are based on the actual months of service up to 180 school days and shall provide for educational services, including personnel, supplies, materials and educational equipment for children with disabilities ages three through 21.
- (b) Local education agencies whose developmental day center expenditures per child exceed the rate approved by the State Board may provide for the additional cost from other available funds.
- (c) Once a child is transferred from the developmental day center and is to be served in the local education agency by agreement between the two governing bodies, the local education agency will then be eligible for an allocation at a per month per child rate



established by the Exceptional Children Division if funds are available under two conditions:

- (1) A school age child (five through 21) who was placed in a developmental day center and is now being served by the local education agency. These funds are for the initial year of the transfer only. This provision is not for disabled preschool children placed in developmental day centers for preschool disability services who are now entering the local education agency at age five for kindergarten; and
  - (2) Local education agencies that have developmental day programs that have closed and there are no other developmental day programs available. The local education agency is entitled only to the amount of funding received the previous year. The allocation is for preschool and school age children with disabilities served in the center that closed.
- (d) Children served in developmental day centers may be counted for federal funds.
  - (e) Developmental day center child counts, external to local education agencies, are not included in the projected regular average daily membership.
  - (f) If the decision is to place the child in the developmental day center(s), the local education agency must submit the following information to the Exceptional Children Division:
    - (1) Name of center;
    - (2) Number of children;
    - (3) Name and date of birth of each child;
    - (4) Type of disabling condition of each child;
    - (5) Rate per month per child (including a breakdown of center's educational costs per month for teachers' salaries, fringe benefits, support services such as occupational therapists, physical therapists, speech, etc.);
    - (6) Copy of contract/agreement with center;
    - (7) All required information (i-vi) must be submitted to Director, Exceptional Children Division, for review and approval. Following review and approval by the Exceptional Children Division, Financial Services will be notified to allocate funds to the requesting local education agency.
  - (g) Personnel employed by local boards of education and/or independently operated developmental day centers may be employed for ten months.
  - (h) These funds are for children ages three through 21 to provide special education and related services for no more than 180 school days.
  - (i) All withdrawals of children from developmental day centers must be reported monthly to the Exceptional Children.

The application for Developmental Day Center (DDC) funding is located in the NCCCIP grant system.

## LEA Monitoring

### Rationale

The LEA contracts with the DDC and should have oversight of the services provided under the contract. The students in the DDC are enrolled in the LEA and included in the Child Count for the LEA.

## Monitoring Components

The LEA will:

- Provide a representative of the LEA for all IEP Team meetings to ensure compliance and procedural safeguards.
- Include the student data in the LEA's internal monitoring process.
- Conduct site visits and observations quarterly to ensure services are aligned to the student's current IEP.
- Verify facility license, teacher licenses, and service provider licenses prior to signing a yearly contract.
- Verify teacher license for all new teachers hired after the yearly contract is signed.
- Review budget and cost report semi-annually.
- Documentation must be maintained on file at the district level.

## State Agency Placements in Facilities Located in LEAs

Community Residential Center Programs (CRCs) and Group/Foster Home Programs are placements initiated by another state agency. Therefore, the LEA in which these programs are located must provide services to students who require special education and related services.

Previously, CRCs were monitored by the EC Division individually rather than part of the LEA's overall program monitoring. Consistent with the shift in program monitoring for Developmental Day Centers, the LEA in which the CRC is located should conduct routine monitoring of the services provided to students with disabilities. The EC Division will include students served in CRCs as part of its LEA Program Compliance Review conducted on a five-year cycle.

## Possible Funding Sources

### NC 1506-1.6 Community Residential Centers

Funds for Community Residential Centers.

- (a) State categorical funds will be allocated to the LEA based on a child count of eligible children with disabilities receiving their special education and related service in a community residential center. The child count(s) will be done by the local education agency where the community residential center is located. Funding for special education and related services in the community residential center will be approved only after the IEP Team in the local education agency where the community residential center is located has determined that the least restrictive environment is the community residential center. If it is determined that the least restrictive environment is the local education agency, the community residential center will be ineligible for educational funding.
- (b) The local education agency may request the per child allocation for one year for any child served in the community residential school program prior to entering the local education agency. These funds are allocated only when funds are available.
- (c) Transportation for all children served in the local education agency residing in a community residential center shall be borne by the local education agency.

- (d) The rate of funds per child shall be determined by the Exceptional Children Division. The rate of funds will be allocated at a per child rate determined annually by the Exceptional Children Division and School Financial Services. Special Community Residential Center funds are based on the actual months of service up to 180 school days and may include extended school year when it is deemed appropriate by the IEP Team and written into the child's IEP. Funds shall be used to provide for educational and related services, including personnel, supplies, materials and educational equipment.
- (e) The amount of funds allocated to the community residential centers per child and per month will be based on a recommendation to the Associate Superintendent for Financial Services by the Director of the Exceptional Children Division.
- (f) The local education agency where the community residential center is located shall certify to the State Board of Education that the educational placement has been approved by the IEP Team.
- (g) The residential placement in a community residential center must be approved by the community residential center and IEP Team before a special education placement can be considered.
- (h) All children approved for residential services in the community residential center must have the least restrictive environment determined by the IEP Team in the local education agency where the community residential center is located.
- (i) All withdrawals of children served in community residential centers must be submitted monthly (no later than 10 days after withdrawal has occurred) to the Director of the Exceptional Children Division. If another child is approved for placement in a community residential center the child's name, date of birth, disabling condition, and date added to roster must accompany the withdrawal notification which lists the child's name, date of birth, disabling condition, local education agency where parents/guardians have legal residence, and date of withdrawal.
- (j) May 15th of each year is the deadline for submission of these applications.

#### NC 1506-1.8 Group Home Placements

##### Group Home Placements.

- (a) NCDPI shall reserve an amount annually of state funding to provide special education and related services for the first-year placement of children with disabilities in residential group homes.
- (b) A local education agency is eligible for group home funds for the initial year of group home placement only if the child has not been counted in either the December 1 or revised April 1 child counts or projected regular average daily membership. After the initial enrollment, the local education agency serving the child will count the child and will be eligible for the state and federal add-ons approved on a prorated annual basis. Only children who have been determined eligible for special education and related services prior to entering the group home are eligible for group home funds. A child who is determined eligible for special education and related services after entering the group home is not eligible for group home funds.
- (c) Special allotments for children who have not been counted by local education agencies for educational allocations will be made on a pro rata annual basis according to the following formula:
  - (1) Regular allocation;

- (2) State add-on (children with disabilities);
- (3) Federal add-on (Title VI-B only); plus
- (d) Upon application for funds for initial year of placement, each local education agency shall submit to the Director of the Exceptional Children Division:
  - (1) Name of child;
  - (2) Name and location of group home;
  - (3) Date of birth of each child;
  - (4) Category of disability; and
  - (5) Type of program to be provided.
- (e) Children with disabilities and accompanying chronic and acute behavioral/emotional needs are eligible for Behavioral Support Services funds or group home funds, not both.
- (f) Without regard to the place of domicile of a parent or guardian, the cost of free appropriate public education for a student with a disability who is placed in or assigned to a group home, foster home or other similar facility, pursuant to State or federal laws, shall be borne by the local board of education in which the group home, foster home or other similar facility is located. Nothing in this section obligates any local board of education to bear any cost for the care and maintenance of a student with a disability in a group home, foster home and similar facility. Funding is based on availability.
- (g) May 15th of each year is the deadline for submission of these applications.

The application for Community Residential Centers (CRCs) and Group Home funding are located in the NCCCIP grant system.

## LEA Monitoring

### Rationale

The LEA contracts with the CRC and/or Group Home and shall have oversight of the services provided under the contract. The students in the CRC and/or Group Home are enrolled in the LEA and included in the Child Count for the LEA.

## Monitoring Components

The LEA will:

- Provide a representative of the LEA for all IEP Team meetings to ensure compliance and procedural safeguards.
- Include the student data in the LEA's internal monitoring process.
- Conduct site visits and observations quarterly to ensure services are aligned to the student's current IEP.
- Verify facility license, teacher licenses, and service provider licenses prior to signing a yearly contract.
- Verify teacher license for all new teachers hired after the yearly contract is signed.
- Review budget and cost report semi-annually.
- Documentation must be maintained on file at the district level.

## Appendix

### Private School or Facility Review Checklist

The components of this checklist should be used by LEAs to determine if a private school or facility meets the requirements as outlined in federal regulations and state policies regarding the provision of special education and related services for students with disabilities.

Requirement	Documentation Evidence	Approval/ Verification Date
<b>Non-Public School Recognition</b> Each Non-Public School must be registered and recognized as a private school by the Division of Non-Public Education (DNPE), as appropriate. Non-Public School information can be found at - <a href="http://ncadmin.nc.gov/about-doa/divisions/division-non-public-education">http://ncadmin.nc.gov/about-doa/divisions/division-non-public-education</a>		
<b>Licensed by DHHS</b> Each mental health facility must be licensed by the Department of Health and Human Services, as appropriate. <a href="https://info.ncdhhs.gov/dhsr/reports.htm">https://info.ncdhhs.gov/dhsr/reports.htm</a>		
<b>Basic Educational Program</b> The basic educational program shall include course requirements and descriptions similar in format to materials previously contained in the standard course of study and it shall provide [Public School Laws of North Carolina Annotated §115C-81.5(b)] for the following:		
a. A core curriculum for all students that takes into account the special needs of children.		
b. A set of competencies, by grade level, for each curriculum area.		
c. A list of textbooks and or instructional materials for use in providing the curriculum.		
d. Standards for student performance and promotion based on the mastery of competencies, including standards for graduation, that take into account children with disabilities and, in particular, include appropriate modifications.		
e. A program of remedial education, as appropriate.		
f. Required support programs.		
g. A definition of instructional day.		

h. Class size recommendations and requirements.		
i. Prescribed staffing allotment ratios.		
j. Material and equipment allotment ratios.		
k. Facilities guidelines that reflect educational program appropriateness.		
l. Any other information the Board considers appropriate and necessary.		
<b>Instructional Time</b> a. Adequate time for instruction is provided during the regular school day and throughout the school year. Non-Public Education: <a href="https://ncadmin.nc.gov/citizens/private-school/private-schools-k-12-requirements">https://ncadmin.nc.gov/citizens/private-school/private-schools-k-12-requirements</a> b. State Board of Education Policy: The annual school calendar provides for a minimum of 185 days and 1,025 hours of instruction covering at least nine calendar months. [Public School Laws of North Carolina Annotated §115C-84.2(1)]		
<b>Instructional Environment</b> a. The instructional environment is conducive to effective teacher-student interaction and the achievement of positive learning results. b. Sufficient space, furniture, and instructional equipment are provided in each instructional setting to permit positive learning results. c. Buildings are accessible and safe for students with disabilities. d. An adequate supply of appropriate instructional materials, textbooks, and supplementary resources is readily available. e. Class size is maintained in accordance with NC <i>Policies Governing Services for Children with Disabilities</i> .		
<b>Individualized Education Program (IEP)</b> Each student enrolled with a disability under IDEA has a current IEP before special education and related services are initiated and all required components of the IEP are completed. a. All required components are included in the IEP. b. If the Local Education Agency (LEA) is placing the student in the Non-Public School, the LEA must be involved in the development of the IEP as well as any reevaluation and placement decisions.		

<ul style="list-style-type: none"> <li>c. Efforts to obtain parent participation in the development and subsequent reviews of the IEP are documented.</li> <li>d. Efforts to invite and obtain student participation in the development of the IEP when transition educational services are discussed, and subsequent review of the IEP are documented.</li> <li>e. Reevaluations occur at least every 3 years or more often if deemed necessary by the IEP Team.</li> <li>f. g. The IEP is reviewed/revised by appropriate staff, parents, and students and placement decisions are made annually.</li> </ul>		
<p><b>Evaluation of Learning</b></p> <ul style="list-style-type: none"> <li>a. A regular, standardized procedure for evaluation of student learning is in use. Progress toward IEP goals is monitored, includes data collection and communicated regularly to parents.</li> <li>b. Students with disabilities must participate in standardized assessments or statewide assessments, as required by DNPE or DPI.</li> </ul>		
<p><b>Personnel Qualifications-</b> Special education teachers and related services personnel are qualified to carry out assigned responsibilities.</p> <ul style="list-style-type: none"> <li>a. Teachers hold a current license to teach in the State as a special education teacher.</li> <li>b. Related services are provided by personnel licensed or certified by the appropriate state agency or board.</li> <li>c. Access to professional development to improve competencies and skills, encourage professional growth, and address student needs is routinely available.</li> </ul>		
<p><b>Physical Facilities-</b> A safe and healthy physical environments that meets the fire, safety, and sanitation standards established by state and local authorities. Buildings and equipment used by students with disabilities are accessible.</p>		
<p><b>Student Records Confidentiality</b></p> <ul style="list-style-type: none"> <li>a. A required access sheet, with signature, data and purpose is maintained within each EC folder.</li> <li>b. The school complies with HIPPA/FERPA requirements, as required.</li> </ul>		

<ul style="list-style-type: none"> <li>c. The school maintains a written list of persons having access to confidential educational records.</li> <li>d. Procedures are in place to provide parents and eligible students the opportunity to inspect, review and copy educational records.</li> </ul>		
<b>Federal and State Regulations</b> <ul style="list-style-type: none"> <li>a. A current edition of NC <i>Policies Governing Services for Children with Disabilities</i> is on file.</li> <li>b. A current edition of the <i>Procedural Safeguards: Handbook on Parents' Rights</i> is distributed to parents each school year to inform them of procedural safeguards.</li> <li>c. NC <i>Policies Governing Services for Children with Disabilities</i> are followed when disciplining students with disabilities.</li> </ul>		
<b>On-Site Visit</b> LEA personnel must conduct an assessment of the private school or facility to ensure that all of the required components are in place.		
<b>Federal Assurances</b> <ul style="list-style-type: none"> <li>a. Representatives of the LEA and the private school or facility will sign the assurances.</li> <li>b. The checklist and the assurances must be reviewed each year the student is placed in the private school or facility.</li> </ul>		



## Assurances

To verify that the private school or facility meets all of the requirements under the IDEA, the LEA and the private school or facility administrators must be able to ensure compliance.

<b>Assurances</b>
<b>CONFIDENTIALITY and ACCESS (300.612)(300.625)(300.622)</b> - Notice to parents are adequate to fully inform parents about confidentiality and access rights, including a description of the extent that the notice is given in the native languages of the various population groups in the LEA. Notice is available describing the children on whom personally identifiable information, the types of information sought, the methods the LEA intends to use in gathering the information, and the uses to be made of the information Policy and/or procedure are established regarding the storage, disclosure and third parties, retention, and destruction of personally identifiable information The Parent Handbook of Rights is issued to parents once a School year. The content addresses all of the rights of parents and children regarding the rights under the Family Educational Rights and Privacy Act (FERPA) of 1974 and implementing regulations in 34 CFR part 99. Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the region of the activity.
<b>ACCESS RIGHTS (300.613)</b> - Permission is granted to parents to inspect and review any education record(s) relating to their children that are collected, maintained, or used by the LEA. The LEA complies with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing, and in no case more than 45 days after the request has been made. The right to inspect and review education records includes: the right to a response from the participating LEA to reasonable requests for explanations and interpretations of the records; the right to request that the LEA provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and the right to have a representative of the parent inspect and review the records. The LEA may presume that the parent has authority to inspect and review records relating to his or her child unless the LEA has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation and divorce.
<b>RECORD of ACCESS (300.614)(300.617)</b> - The LEA keeps a record of parties obtaining access to education records collected, maintained, or used under Part B (except access by parents and authorized employees of the LEA), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records. The LEA provides parents on request a list of the types and locations of education records collected, maintained, or used by the LEA. The LEA may charge a fee for copies of records that are made for parents if the fee does not effectively prevent the parents from exercising their right to inspect and review those records. The LEA may not charge a fee to search for or to retrieve information.
<b>AMENDMENT of RECORDS at PARENT'S REQUEST (300.618)</b> - A parent who believes that information in the education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the child, may request the participating LEA that maintains the information to amend the information. The LEA decides whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request. If the agency decides to refuse to amend the information in accordance with the request, it shall inform the parent of the refusal and advise the parent of the right to a hearing.
<b>OPPORTUNITY FOR and RESULT of HEARING (300.619)(300.620)</b> - Upon request, the LEA provides an opportunity for a hearing to challenge information in education records to ensure that it is

not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child. If, as a result, of the hearing, the agency decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it shall amend the information accordingly and so inform the parent in writing. If, as a result of the hearing, the LEA decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it shall inform the parent of the right to place in the records it maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.

**CONSENT (300.622)** - Parental consent must be obtained before personally identifiable information is disclosed to parties other than officials of participating agencies/LEAs unless the information is contained in educational records, and the disclosure is authorized without parental consent. Parental consent, or the consent of an eligible child who has reached the age of majority under state law, must be obtained before personally identifiable information is release to officials of participating agencies providing or paying for transition services. If a child is enrolled or is in a private school that is not located in the LEA of the parent's residence, parental consent must be obtained before any personally identifiable information about the child is released between officials in the LEA where the private schools is located and officials in the LEA of the parent's residence. The LEA has policies and/or procedures that are used in the event that a person refuses to provide consent.

**SAFEGUARDS (300.623)** - The LEA protects the confidentiality of personally identifiable information at collection, storage, disclosure and destruction stages. One official at each participating LEA shall assume responsibility for ensuring the confidentiality of any personally identifiable information. All persons collecting or using personally identifiable information must receive training or instruction regarding the LEA's policies and procedures. Each participating agency maintains, for public inspection, a current listing of the names and positions of those employees within the LEA who may have access to this information.

**DESTRUCTION of INFORMATION (300.624)** - The LEA informs parents when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to the child. The information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his/her grades, attendance records, classes attended, grade level completed, and year completed are maintained without time limitation.

**CHILDREN'S RIGHTS (300.625)** - The LEA provides policies and procedures regarding the extent to which children are afforded rights of privacy similar to those afforded to parents, taking into consideration the age of the child and type or severity of disability. Under the regulations for the Family Educational Rights and Privacy Act, the rights of parents regarding education records are transferred to the student at age 18. If the rights accorded to parents under Part B are transferred to a student who reaches the age of majority, the rights regarding educational records must also be transferred to the student. However, the LEA provides any notice required to the student and the parents.

**LEAST RESTRICTIVE ENVIRONMENT (300.114-300.120)(300.124C)** - The LEA ensures that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services. To the maximum extent appropriate, children with disabilities including children in public or private institutions or other care facilities, are educated with children who are nondisabled. 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.

**INDIVIDUALIZED EDUCATION PROGRAM (300.323)** - The IEP is in effect for each child with a disability at the beginning of each school year and it is in effect before special education and related

services are provided to an eligible child. The IEP is implemented as soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP. It is accessible to each regular education teacher, special education teacher, related service provider, and other service providers who is responsible for its implementation. Each teacher and provider are informed of their responsibilities related to implementing the child's IEP and is informed of specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

**Children Placed or Referred to Private School by the Public Agency (300.145):** The LEA ensures that before a child with a disability is placed, or referred to a private school, the agency shall initiate and conduct a meeting to develop an IEP for the child. The LEA ensures that a representative of the private school attends the meeting. If the representative cannot attend, the LEA uses other methods to ensure participation by the private school. After a child with a disability enters a private school, any meetings to review and revise the child's IEP may be initiated and conducted by the private school at the discretion of the LEA. If the private school initiates and conducts these meetings, the LEA shall ensure that the parents and a LEA representative are involved in any decision about the child's IEP; and agree to any proposed changes in the IEP before those changes are implemented. When the private school implements the IEP, the LEA is responsible for compliance.

**IEP MEETINGS and IEP TEAM (300.321)** - The LEA is responsible for initiating and conducting meetings for the purpose of developing, reviewing, and revising the IEP of a child with a disability. Within a reasonable period of time following the LEA's receipt of parent consent to an initial evaluation, the child is evaluated, and if determined eligible under this part, special education and related services are made available to the child in accordance with an IEP. A meeting to develop the IEP must be conducted within 30 days of a determination that the child needs special education and related services. The IEP Team reviews the IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and revises the IEP as appropriate.

The LEA ensures the IEP team for each child with a disability includes the parents of the child, at least one regular education teacher of the child (if the child is, or may be, participating in the regular education environment), at least one special education teacher of the child, or if appropriate, at least one special education provider of the child, a representative of the LEA who is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities. This representative is knowledgeable about the availability of resources of the LEA, an individual who can interpret the instructional implications of evaluation results, who may be member of the team. At the discretion of the parent or the LEA, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate.

**DEVELOPING, REVIEW and REVISION of IEP (300.324)** - The IEP team, when developing the IEP considers the strengths of the child, concerns of the parents for enhancing the education of their child, recent evaluation(s), and the academic developmental, and functional needs of the child. The Team takes into consideration special factors such as a child whose Behavior impedes his learning or that of others, consider the use of positive behavioral interventions and support strategies the child with limited English proficiency, the child who is blind or visually impaired, communication needs of the child, whether the child requires assistive technology devices and services. If, in considering the special factors, the IEP Team determines that a child needs a particular device or service (including an intervention, accommodation, or other program modifications) in order for the child to receive FAPE, the Team must include a statement to that effect in the child's IEP. The regular education teacher of the child must participate in the development, review and revision of the child's IEP.

The private school or facility meets all of the above assurances and will comply with the contract agreement between \_\_\_\_\_ (LEA) and \_\_\_\_\_ (Private School or Facility).

\_\_\_\_\_  
**Superintendent**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**EC Director/Coordinator Signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Facility Director/Administrator**

\_\_\_\_\_  
**Date**