

OFFICE OF INSTRUCTIONAL PROGRAMS AND SERVICES
Summary of State Board of Education Agenda Items
January 19-20, 2006

OFFICE OF ACADEMIC EDUCATION

Office of Special Education

08. Approval to begin the Administrative Procedures Act process: To revise the Educable Child policies

EXECUTIVE SUMMARY

The Office of Special Education is requesting permission to begin the Administrative Procedures Act process to remove State Board of Education Policies IDDF-5, IDDF-10, IDDF 13, and IDDF 16 regarding the Educable Child Program and to create one policy addressing Educable Child. The proposed policy addresses facility approval, state level review board for financial assistance approval, financial assistance, and hearing procedures. The proposed policy includes a revised methodology for calculating the maximum educable child daily rate.

Back-up material attached

DESCRIPTOR TERM: SPECIAL EDUCATION	CODE: IDDF-5
ADOPTION DATE:	REVISION: APRIL 19, 1991

STATE BOARD POLICY

~~Procedures for Public School Districts to follow when placing a Handicapped Student in a Private or Parochial School are as follows:~~

- ~~1. The IEP Committee determined that a FAPE in the least restrictive environment cannot be provided for the handicapped student in the local school district (DI-SE-F10a).~~
- ~~2. The IEP Committee, after discussion with the student's parent(s), decided that the appropriate educational placement for this student is in a private or parochial school.~~
- ~~3. Appropriate school district personnel check to see if the suggested private or parochial school is approved by the Educable Child Program, State Department of Education, Bureau of Special Services. If the school has been approved by the State Department of Education, a cost breakdown of the services which are provided will be sent to the school district by the private or parochial school. This breakdown should be used in completing the budget analysis (DI-SE-F8) that is attached to the application. The State Department of education will not provide Educable Child funds for any medical services; therefore, any obligation made by school district personnel to pay for such services will be at school district expense.~~
- ~~4. The local school district will initiate and conduct meetings to develop or review/revise the IEP of each student it placed in a private school. An IEP will be developed by the local school district before placing the student in the private schools. The student's teacher or other representative from the private school will be in attendance at the meeting. If a representative from the private school cannot be present at the meeting, participation by the private school will be provided through individual or conference calls, or written communication. The local school district has the final responsibility for the development of the IEP for each for each student it places in a private school; however, after the initial placement, the local school district has the option to delegate this responsibility to the private school. Even then, the local school district shall insure that IEP meetings are conducted in accordance with the following steps: i.e., WPN will be given to parents, receipt will be verified, parents and a school district~~

representative will be at the meeting, be involved in any decision about the IEP, and agree to proposed changes before they are implemented. On the IEP, please specify the name of the private or parochial school and special education and related services to be provided. No financial aid will be provided until the child has been ruled eligible and an IEP has been appropriately developed.

5. ~~Appropriate school district personnel complete the following:~~

~~a. Check to see if the student's teacher at the private or parochial school is certified in the area of the student's eligibility ruling. Make sure the student's eligibility ruling (PPDS) is current.~~

~~b. Complete Sections 1, 2, and 3 of DI-SE-F10 (Application Form). Section 4 must be completed by the private or parochial school.~~

~~c. Send the following forms and reports to the State Department of Education, Bureau of Special Services, Attention: Consultant, Educable Child Program.~~

~~1. Public School District Application for Financial Assistance When Placing a Handicapped Student in an Private or Parochial School (DI-SE-F10)~~

~~2. Pupil Personal Data Sheet (DI-SE-F37)~~

~~3. Assessment Team Report~~

~~4. Individualized Educational Plan~~

~~5. Budget Analysis (DI-SE-F8)~~

~~6. Justification for Placement (DI-SE-A10a)~~

~~7. The Student may be placed in the private or parochial school as soon as an eligibility ruling has been obtained and an individualized educational plan has been developed. WHEN PLACING A STUDENT PRIOR TO FINAL APPROVAL FROM THE STATE DEPARTMENT OF EDUCATION THE SCHOOL DISTRICT SHOULD BE AWARE THAT IT MUST BE PREPARED TO PAY ANY EXPENSES WHICH ARE DISALLOWED BY THE STATE DEPARTMENT OF EDUCATION. State funds will be used to pay the first \$3000 of the total cost of the placement made by the district. The district is responsible for paying the next \$6000 or 10%, whichever is greater, of the total cost. The remainder of the total cost will be paid from Part B set-aside funds, as available. If state moneys are not sufficient to fund all applications, there will be ratable reduction for all recipients. Following full review of the application, Pupil Personal Data Sheet, Individualized Educational Plan, and budget analysis, the school district will be notified in writing by the State Department of Education as to the approval of the student for~~

reimbursement under this program. Deadline dates for applying for financial assistance are as follows:

a. ~~FIRST QUARTER (Beginning of School through November): Due the first working day in November.~~

b. ~~SECOND QUARTER (December through February): Due the first working day in February.~~

c. ~~THIRD QUARTER (March through Remainder of School): Due the first working day in May.~~

~~7. If the student drops from the special education program or changes schools, an official drop form must be completed and submitted to the Bureau of Special Services, State Department of Education, Attention: Consultant, Educable Child Program.~~

~~8. No Educable Child funds are appropriated for services provided through the summer months.~~

~~9. A current PPDS and IEP must be on file in the office of Consultant Educable Child Program at all times.~~

DESCRIPTOR TERM: SPECIAL EDUCATION	CODE: IDDF-10
ADOPTION DATE: JANUARY 15, 1993	REVISION:

STATE BOARD POLICY

**FINANCIAL ASSISTANCE TO CHILDREN WITH DISABILITIES
ATTENDING PRIVATE AND PAROCHIAL SCHOOLS
HEARING PROCEDURES UNDER 37-23-73**

~~1. In the event of disapproval by the Department of Education of an application for financial assistance payable from department, funds under Mississippi Code Ann. Section 37-23-69, The Department will give notice to the applicant by certified mail and notify the applicant of the right to request a hearing.~~

~~2. Within ten (10) calendar days after receipt of the notice, the applicant may apply in writing to the Mississippi Department of Education for a hearing before a hearing officer designated by the Mississippi State Board of Education pursuant to Mississippi Code Ann. Section 37-1-5.~~

~~3. The hearing officer shall notify the applicant of the time, place, and date of the hearing. The date shall be not less than ten (10) calendar days and not more than thirty (30) calendar days after the receipt of the request for a hearing unless otherwise agreed by the parties.~~

~~4. It shall be the responsibility of each party to secure the attendance of its witnesses, if any, and any expenses attendant thereto shall be borne by the party calling that witness. Two copies of any written evidence will be submitted: one copy for the hearing officer and one for the opposing party. Evidence submitted by the applicant will be labeled P-1, P-2, etc. Evidence submitted by the department will be labeled D-1, D-2, etc. Evidence may be stipulated and entered as S-1, S-2, etc.~~

~~5. The hearing officer shall require that all witnesses be sworn before offering testimony. The hearing officer shall not be bound by the Common Law or statutory rules of evidence or by formal or technical rules of procedure and may conduct reasonable questioning of any witnesses. The hearing officer may limit the examination or cross-examination of any witnesses to keep the hearing focused on the issue of withholding of funds and may recess/reconvene the hearing if necessary.~~

~~6. The Department of Education shall make a record of the proceedings to include all documents introduced into evidence which shall be available for cost upon the written request of the applicant.~~

~~7. Within fifteen (15) working days of the conclusion of the hearing, the hearing officer shall make a recommendation in the following format: (1) purpose of the hearing, (2) summary of evidence presented, and (3) conclusions and recommendations, a copy of which shall be sent to the parties by certified mail.~~

~~8. The completed record along with the hearing officer's recommendation shall be certified to the State Board of Education which shall at its next regularly scheduled meeting consider only the record and shall not consider any evidence or material not included within the record in reaching its final determination.~~

~~9. If the State Board of Education shall affirm the Department's actions of disapproval of the application for financial assistance, the State Board of Education shall make its written findings and issue its order and notice shall be given the applicant by certified mail. The decision of the State board of Education is final.~~

~~10. Any applicant aggrieved by the decision of the State Board of education may within ten (10) calendar days after receipt of such notice file a petition in Chancery Court of the county in which the applicant resides pursuant to the provisions of Mississippi Code Ann. Section 37-23-73.~~

DESCRIPTOR TERM: SPECIAL EDUCATION	CODE: IDDF-13
ADOPTION DATE: FEBRUARY 19, 1993	REVISION:

STATE BOARD POLICY

For purposes of the ~~Educable Child regulations, accredited is defined as follows:~~

~~Instate schools must hold an approval status from the State Board of Education.~~

~~Out-of-state schools must hold an approval status from their state educational agency or a current accreditation status from a nationally recognized educational accrediting entity such as the Southern Association of Colleges and Schools.~~

DESCRIPTOR TERM: SPECIAL EDUCATION	CODE: IDDF-16
ADOPTION DATE: AUGUST 19, 1994	REVISION:

STATE BOARD POLICY

~~Designated state Educable Child Program funds from the Mississippi Department of Education (MDE) may be utilized to assist in providing a local or regional system of care in order to return a child with a serious emotionally disturbed disability to a community setting. Designated funds are the state moneys available to pay for the placement of a child who 1) has a disability and is diagnosed as seriously emotionally disturbed in accordance with regulations, and 2) has been placed in a private facility by a school district or the Department of Human Services (DHS), in accordance with regulations.~~

~~The designated state funds which would be used for a child's placement in a facility by a school district or DHS may be paid into a pool of funds from other state agencies. Such funds must be used for the implementation of a child's individualized plan of care. The individualized plan of care provided must be designed and provided in a manner which enables the child to successfully return to a community with the appropriate support for the child and family. The child's individualized plan of care must include the provision of a free appropriate public education in accordance with regulations. If there are sufficient funds to serve other children, due to cost savings as a result of serving more than one child at home and/or matching the pooled funds with federal dollars, the funds may be used to implement individualized plans of care for other children.~~

~~To ensure state funds from MDE are expended in a manner which will provide appropriate educational services, the information listed below must be submitted by the lead agency responsible for coordinating the system of care. The following information must be submitted to the Office of Special Education for approval prior to funds being paid:~~

- ~~1. A description of the local or regional system of care to be implemented including the responsibilities of each state agency and the school district(s) involved in the system,~~
- ~~2. The amount of funding to be provided by each state agency for the system of care and an assurance that the funds necessary to implement the system will be available,~~
- ~~3. The timeline for implementing the system of care,~~

~~4. The individualized plan of care for the child including the specific plan for support to ensure a free appropriate public education is provided, and~~

~~5. An assurance from the school district involved in the provision of the educational program for the child that an Individualized Education Program has been developed and services can and will be implemented in accordance with regulations.~~

~~If the school district responsible for providing a free appropriate education does not agree that an educational program can be provided for the child through a system of care, funds from the MDE for that particular child will not be utilized to support the system.~~

~~If, for any reason, during the implementation of the individualized plan of care, the district cannot meet the child's educational needs, the MDE, Office of Special Education must be notified by the district prior to an alternate out-of-district placement being made. The Office of Special Education will then determine the reason(s) for the child's plan not being effective and notify the lead agency responsible for coordinating the system of care that the educational needs of the child can no longer be met by the district. If the district originally placed the child in a facility outside of the district, it will be responsible for determining the appropriate placement for the child. Such placements must be made in accordance with regulations. The district will be responsible for paying \$6,000 or 10%, whichever is greater, of the total cost of such a placement as required by regulations. Federal funds will be utilized to pay the remaining cost of such a placement in accordance with regulations.~~

~~If DHS originally placed the child in a facility, it will be responsible for the placement of the child in an alternate setting based on the recommendation of the child's IEP committee. The MDE, Office of Special Education will coordinate such a necessary placement with DHS. The MDE will be responsible for the educational costs and DHS will be responsible for the room and board cost as specified in state law and regulations.~~

DESCRIPTOR TERM: SPECIAL EDUCATION	CODE: IDDF-
ADOPTION DATE: FEBRUARY 19, 1993	REVISION:

STATE BOARD POLICY

Educable Child Program

Facility Approval

1. All private schools/facilities, parochial schools/facilities, speech, hearing and/or language clinics (hereinafter referred to as private facilities) that participate in the Educable Child Program will be accredited by a state or regional accrediting agency or approved/licensed by the State Department of Education to meet educational standards in the state
2. All Private Intermediate Care Facilities for the mentally retarded or Psychiatric Residential Treatment Facilities (hereinafter referred to as private facilities) shall be certified/licensed by the designated state authority for such facilities.
3. Out of state private facilities must hold an approval status from their state educational agency or a current accreditation status from a nationally recognized educational accrediting entity such as the Southern Association of Colleges and Schools.

State Level Review Board For Financial Assistance Approval

A State Level Review Board appointed by Mississippi Department of Education will, after review of the Educable Child Applicant's (student with a disability under IDEIA 2004) case, decide whether or not the Educable Child Program will provide financial assistance to the student being placed in a private facility. The State Level Review Board's decision does not change the IEP (individual educational plan) placement decision, rather it determines the Educable Child Program's financial involvement regarding the placement. The State Level Review Board will act within five (5) working days of receipt of the student application for assistance.

Financial Assistance

General

1. Funds provided under the Educable Child Program will be used for educational costs only.
2. The Mississippi Department of Education will not provide Educable Child funds for the payment of medical services.

3. Room and Board charges for Department of Human Services Educable Child Applicants will not be provided under the Educable Child Program.
4. Public school districts shall be reimbursed for the educational costs of students with disabilities as outlined in item 8 and under the section entitled "School District Payment."
5. Payments by the Mississippi Department of Education and/or public school districts to private facilities for the educational services of an Educable Child Applicant placed by the Department of Human Services or public school districts shall not exceed the maximum daily rate as outlined in item 8.
6. If transportation costs (i.e. defined as travel to and from school) are incurred by a private facility for an Educable Child Applicant placed by a public school district, payment for such costs will be reasonable and negotiated between the private facility and the public school district. In the event that transportation costs are incurred by a private facility for students with disabilities placed by the Department of Human Service, payment will be negotiated between the Mississippi Department of Education and the private facility.
7. The Mississippi Department of Education has established the Educable Child Student Weight as a multiple of 4.9 times the base student cost of the Mississippi Adequate Education Program.
8. The maximum daily rate payable to private facilities for the educational costs of an Educable Child Applicant placed by public school districts and the Department of Human Services for the 2006-2007 school year and future school years shall be based on the following formula:

$$\frac{(\text{MAEP Base Student Cost} * \text{EC Student Weight}) + \text{MAEP Base Student Cost}}{\text{Number of Days in EC School Year}} = \text{Maximum Educable Child Daily Rate}$$

The rate payable to private facilities shall be the lesser of the maximum daily rate as calculated by the MDE per the above formula or the actual daily rate charged by the provider. Private facilities charging less than the proposed maximum proposed daily rate as of the date of approval of this policy will be reimbursed at current (2005-2006 school year) daily rates with allowances for future increases. Future increases will be limited to the percentage increase in the maximum daily rate as calculated by the MDE per the above formula.

School District Placement

The school district will pay the first \$8,000 for any Educable Child Applicant made by the district. The remainder will be paid by the Educable Child Program, providing funds are available from state and federal sources and the State Level Review Board has approved the Educable Child Applicant for financial assistance.

Department of Human Services Placement

The Educable Child Program will pay the educational costs of an Educable Child Applicant placed by and in the custody of the Mississippi Department of Human Services, provided funds are available from state and federal sources and the State Level Review Board has approved the placement for financial assistance.

Parent Medicaid Placement

The Educable Child Program will provide up to \$5,000 in financial assistance to an Educable Child Applicant placed in an approved private facility when the student is determined to be eligible for Medicaid services.

Parent Placement

The Educable Child Program will provide the first \$600 in educational costs for an Educable Child Applicant who is placed in an approved private facility. If the child is under 6 years of age, and no program appropriate for the child exists in the public schools of his domicile, financial assistance shall be \$600 and fifty percent of the next \$800.00 or up to \$1,000.

If state and federal funding is not sufficient to fund all applicants, there will be a ratable reduction for all recipients receiving state funds under the Educable Child Program.

Hearing Procedures

1. In the event of disapproval by the State Level Review Board of an application for financial assistance under the Educable Child Program (Mississippi Code Annotated, Section 37-23-69), the Mississippi Department of Education will give notice to the Educable Child Applicant (hereinafter referred to as applicant) by certified mail and notify the applicant of the right to request a hearing.
2. Within ten (10) working days after the receipt of the notice, the applicant may apply in writing to the Mississippi Department of Education for a hearing before a hearing officer designated by the Mississippi State Board of Education pursuant to Mississippi Code Annotated, Section 37-1-5.
3. The hearing officer shall notify the applicant of the time, place, and date of the hearing. The date shall be not less than ten (10) working days and not more than 30 calendar days after the receipt of the request for a hearing unless otherwise agreed by the parties.
4. It shall be the responsibility of each party to secure the attendance of its witnesses, if any, and any expenses attendant thereto shall be borne by the party calling that witness. Two copies of any written evidence will be submitted: one copy for the hearing officer and one for the opposing party. Evidence submitted by the applicant will be labeled P-1, P-2, etc. Evidence submitted by the department will be labeled D-1, D-2, etc. Evidence may be stipulated and entered as S-1, S-2, etc.
5. The hearing officer shall require that all witnesses be sworn before offering testimony. The hearing officer shall not be bound by the Common Law or statutory rules of evidence or by formal or technical rules of procedure and may conduct reasonable questioning of any witnesses. The hearing officer may limit the examination or cross-examination of any witnesses to keep the hearing focused on the issue of withholding of funds and may recess/reconvene the hearing if necessary.

6. The Department of Education shall make a record of the proceedings to include all documents introduced into evidence which shall be available for cost upon the written request of the applicant.
7. Within fifteen (15) working days of the conclusion of the hearing, the hearing officer shall make a recommendation in the following format: (1) purpose of the hearing, (2) summary of evidence presented, and (3) conclusions and recommendations, a copy of which shall be sent to the parties by certified mail.
8. The completed record along with the hearing officer's recommendation shall be certified to the State Board of Education which shall at its next regularly scheduled meeting consider only the record and shall not consider any evidence or material not included within the record in reaching its final determination.
9. If the State Board of Education shall affirm the Department's actions of disapproval of the application for financial assistance, the State Board of Education shall make its written findings and issue its order and notice shall be given the applicant by certified mail. The decision of the State board of Education is final.
10. Any applicant aggrieved by the decision of the State Board of education may within ten (10) calendar days after receipt of such notice file a petition in Chancery Court of the county in which the applicant resides pursuant to the provisions of Mississippi Code Ann. Section 37-23-73.

Summary of the Methodology for Calculation of Educable Child Student Weight and Corresponding Maximum Daily Rate

Step 1: Determination of Base Personnel Cost:

Several private service providers of the Educable Child program were surveyed to determine the profile of services provided to a cross section/sample of students. Based on responses to these surveys, the cost attributed to 16 distinct service areas was determined. The service areas include instruction, library, counseling, medical/school health, psychology, recreation, rehabilitation, social work, speech, orientation/mobility, behavioral skills, cash management, dietary and nutrition, documentation, transportation, and administration. The cost attributed to each service area was calculated based on the total hours per day the service was rendered, the number of students served simultaneously in each setting, and the average annual salary plus fringe of the individuals providing the services. The annual salary data was obtained using the average annual statewide public school salaries for comparable job positions for each of the 16 service areas for the 2005-2006 school year. The cost attributed to each of the 16 service areas was totaled to arrive at a base personnel cost of \$21,274.

Step 2: Determination of Overhead Rate:

Using financial data obtained from several private service providers, it was determined that an overhead rate of 21% should be applied as an adjustment to the base personnel cost.

Step 3: Obtain MAEP Base Student Cost:

The MAEP Base Student Cost for the 2005-2006 school year was calculated by the Office of School Financial Services to be \$4,365.