Reimbursement For Non-Resident Pupils

June 2019

Prepared by:
Colleen DiCaprio
Rose Fiddemon
Mike Los
Sarah Morrison
Jay O’Connor
John Tamburello

10 Empire State Boulevard
Castleton, New York 12033
518.477.2635 TEL
518.477.4284 FAX
http://sap.questar.org
COPYRIGHT NOTIFICATION
© Questar III, 2019
This reference manual is copyrighted material and is intended only for the use of the State Aid and Financial Planning Service participating districts. The State Aid and Financial Planning Service may copy this reference manual for distribution to its participating districts. The contents of this reference manual may not be copied or reproduced in any form or by any means for any other individual or organization without the prior written permission of the State Aid and Financial Planning Service.
# Table of Contents

Introduction ................................................................................................................................. 1

**DETERMINING THE TYPE OF PLACEMENT** .................................................................................. 2

Educational and Financial Responsibilities for School-Age Children in Residential Care ................. 2

**DETERMINING RESIDENCY, EDUCATIONAL/CSE, AND FINANCIAL RESPONSIBILITY** ........... 3-18

Foster Children ............................................................................................................................ 3-5

Chapter Placements/Basic Contribution Pupils ............................................................................ 6-10

Incarcerated Youth ...................................................................................................................... 11

Homeless Pupil Education .......................................................................................................... 12-14

Unaccompanied Children & Youth ............................................................................................. 14-15

Foreign Exchange Students ........................................................................................................ 15

Parentally Placed Pupils with Disabilities in Non-public Schools .................................................. 15-18

**BILLING PROCEDURES** ........................................................................................................ 18-53

Non-public School Health & Welfare Services ............................................................................ 18-21

Non-resident Student Billing & Claim Form Process .................................................................... 22

Billing Procedures for Non-resident Pupils Enrolled in a Public School ........................................ 23-24

Sample Estimated Non-Resident Tuition Report ......................................................................... 25-26

Allowable Expenditures for Determining Per Pupil Special Education Costs ................................. 27-28

Protecting a School District’s Right to Collect Non-Resident Tuition ........................................... 29

Maximum Tuition Rates to Charge Other School Districts ............................................................ 30

Checklist for Districts with Resident Students in Foster Care Educated in Another School District .... 31

Checklist for Districts with Non-resident Students in Foster Care Attending This School District ....... 32-34

Sample Letter to Notify District of Origin .................................................................................... 35-36

District to District Placement of Students with Disabilities .......................................................... 37-38

Billing and Claim Process: District to District Placement of Students with Disabilities .................. 39

Billing the Net Cost of Transportation for Non-resident Students ................................................ 40-41

Sample Invoices - Tuition ............................................................................................................. 42-51

Billing for Non-resident Students in BOCES CTE Programs ....................................................... 52-53

**LEGAL ISSUES** ....................................................................................................................... 54-55

Appeals to Commissioner and Court Action .................................................................................. 54-55

Supporting Documentation .......................................................................................................... 56-86

SED Memo: Guidelines Pertaining to Residency Determinations ............................................... 66-76

NYS Education Law, Section 3209 as Amended 04/20/2017 ......................................................... 77-85

Legal References .......................................................................................................................... 86
Introduction

New York Education Law provides that persons between the ages of 5 and 21 are entitled to a “free and appropriate public education.” Generally, a student is educated by the student’s district of residence. There are exceptions, however, to this rule. For instance, school districts may voluntarily establish a policy to accept non-resident students and set tuition rates, according to statutory direction, for non-resident students.

The exceptions primarily addressed by this publication, though, are those provided by law to address the instances where students may be living in residences designated by state or local agencies through various social services processes. This publication will provide guidance to school officials in ascertaining their educational and financial responsibilities for such students, and in following appropriate procedures to obtain financial reimbursement for educational services provided.

The following is intended to give general guidance to school districts regarding their educational and fiscal responsibilities. It is not intended to offer legal advice relating to specific situations; readers are encouraged to seek legal counsel regarding these.
Educational and Financial Responsibilities for School-Age Children in Residential Care

The following questions will assist the district in determining educational and financial responsibilities for children in the residential care of other State agencies. Once these questions are answered, the district can determine its programmatic and fiscal responsibilities in relation to the child in residential care.

1) Which State agency licenses, operates, or certifies the residential program? (e.g. Office of Mental Health, Department of Social Services)

2) What type of program is it? (specific type of program certification) (e.g. intermediate care facility, group home, residential treatment facility, foster family home)

3) What public or private agency operates the program? (e.g. United Cerebral Palsy, Randolph Union Free School District)

4) Is this a preschool or school-age child?

5) Is the child under the care and custody of the Department of Social Services or Office of Children and Family Services?

6) In which district did the child legally reside at the time of placement in the residential program?

7) In which district do the parents reside?

8) From what type of program was the student discharged? (e.g. developmental center)

9) In what type of program will the child receive education? (e.g. State or agency facility, public school, BOCES, private approved school)

10) Is the child eligible for special education services?

SOURCE: Education Responsibilities for School-Age Children in Residential Care (known colloquially as the Purple Book), The University of the State of New York, The State Education Department, Office of Vocational and Educational Services for Individuals with Disabilities, Office of Special Education Services, March 1996, reprint January 2000:

Foster Care
(Education Law Section 3202 4(a), (e) and Section 3244)

1. Child is placed by public agency in a foster home.

2. The district where the child resided at the time child and family services or a state dept./agency assumed responsibility the child’s care is the **DISTRICT OF ORIGIN** for purposes of determining financial responsibility. This applies to both school-age children and those who have yet to reach the age of compulsory attendance including infants, toddlers and pre-school age children.

3. The **SCHOOL OF ORIGIN** is the school building that the child attended when they entered foster care and then becomes the designated receiving school (the building that children from the first building get promoted to as they move up grades).

4. The district where the foster home is located is the **DISTRICT OF RESIDENCE**. The social services district, in consultation with the appropriate local educational agency or agencies, shall determine, based on the best interest of the child, if the child should attend the **SCHOOL OF ORIGIN** or the **DISTRICT OF RESIDENCE**. The district selected is the **EDUCATING DISTRICT** and is responsible for providing educational services to the foster child. This responsibility extends for the duration of the child’s placement in foster care and until the end of the school year in which such child is no longer in foster care and for one additional year if that year constitutes the child’s terminal year in such building, e.g. 11th grader could stay for his/her senior year. [http://www.p12.nysed.gov/sss/documents/FosterCareToolkit.pdf](http://www.p12.nysed.gov/sss/documents/FosterCareToolkit.pdf)

5. The cost of education is the responsibility of the **DISTRICT OF ORIGIN**. If the foster care student is educated in the **DISTRICT OF RESIDENCE**, the **DISTRICT OF RESIDENCE/EDUCATING DISTRICT** may bill the **DISTRICT OF ORIGIN**.

6. The tuition is computed in accordance with the Non-resident Tuition formula established by Commissioner’s Regulations Part 174.

7. If the **DISTRICT OF ORIGIN** denies payment or does not respond to repeated billing, the **EDUCATING DISTRICT** may appeal to the Commissioner of Education or pursue court action. (See Billing and Payment of Tuition for Non-resident Students).

8. If **DISTRICT OF ORIGIN** does not pay the **EDUCATING DISTRICT** the tuition within 90 days of court order or Commissioner’s Decision, the **EDUCATING DISTRICT** can apply to the Commissioner to receive the tuition payment from the state aid apportionment of the resident district. The application (SA-808) and a certified copy of the court order or decision must be submitted to the State Aid Unit as well as the district of residence. If the district of origin does
not make payment within 30 days of receiving such application, SED will deduct the amount from the state aid due the educating district.

9. A child who is placed in a foster care placement that is in a contiguous state can also be placed in either the **SCHOOL OF ORIGIN** or the **DISTRICT OF ATTENDANCE**. This responsibility extends for the duration of the child’s placement in foster care and until the end of the school year in which such child is no longer in foster care and for one additional year if that year constitutes the child’s terminal year in such building, e.g. 11th grader could stay for his/her senior year.

10. Children in foster care that move from one foster care placement to another shall be entitled to continue to attend the **SCHOOL OF ORIGIN** or the social services district may designate that the child attend any school that children in the attendance area that the foster care placement is located.

**DETERMINING DISTRICT OF ORIGIN (Education Law Section 3202(f))**
The identity of the school district of origin at the time the public agency placed the pupil in the foster home is determined as follows:

1. Within 10 days of placement in foster home, the public agency (Office of Children and Family Services) shall notify, in writing, the district believed to be the **DISTRICT OF ORIGIN**. The notice (Form DSS-2999) should include the name of the pupil and any data pertaining to the identification of the district where the child is currently educated as well as the district they will be educated at due to this placement in foster care.

2. Within 10 days of receipt of the written notice, the **DISTRICT OF ORIGIN** can submit additional evidence to the public agency to establish that it was not the **DISTRICT OF ORIGIN** at the time the child was placed in foster care.

3. The public agency must consider the additional evidence and must make a final determination in writing within 5 days after receiving the additional evidence.

4. If the district does not submit additional evidence, then the original notification shall be considered the final notification.

5. If the notified district is determined not to be the **DISTRICT OF ORIGIN**, the agency will determine and notify the correct **DISTRICT OF ORIGIN** in the form described above.

6. The district determined to be the **DISTRICT OF ORIGIN** may appeal to the Commissioner of Education within 30 days of receipt of final notification.
TRANSPORTATION STARTING WITH 2018-19 SCHOOL YEAR

A. Foster care children who require transportation in order to attend a SCHOOL OF ORIGIN must be provided transportation to and from the child’s foster care placement location and the SCHOOL OF ORIGIN by the DISTRICT OF ATTENDANCE. Any reasonable costs incurred for such transportation that is allowable up to 50 miles each way may be aidable under Transportation Aid for the DISTRICT OF ORIGIN.

B. Foster care children who require transportation in order to attend the DISTRICT OF RESIDENCE will be provided transportation by the DISTRICT OF ATTENDANCE. Any reasonable costs incurred for such transportation may be aidable under Transportation Aid for the DISTRICT OF RESIDENCE.

Any excess allowable transportation costs not aided in A. or B. shall be shared between the social services district and the DISTRICT OF ATTENDANCE after utilizing all other allowable funding. http://www.p12.nysed.gov/sss/documents/FosterCareTransportationGuidance.pdf

REVENUE (Educating District Where Foster Home is Located))
Record at A2230 – Day School Tuition – Other Districts in NYS
Record at A2304 – Transportation: Shared Services Provided to Other Districts on Contract Buses or District Owned or Operated Buses

EXPENDITURE (District of Origin)
Record tuition expense for SWD at A2250.471 – Tuition Paid to Public Districts in NYS (excluding Special Act Districts)
Record tuition expense for non-disabled students at A2110.471-Tuition Paid to Public Districts in NYS (excluding Special Act Districts)
Record transportation expense billed by educating district at A5510.4 and report expense on State Aid Form FT, Schedule I – Contractual Transportation Expenses
Chapter Placements / Basic Contribution Pupils

CHAPTER 47 - PUPILS FORMERLY RESIDING IN OPWDD (previously OMRDD) CENTERS AND PRESENTLY IN FAMILY CARE OR GROUP HOMES

Pupils placed from a developmental center operated by the Office of Persons with Developmental Disabilities (OPWDD), previously Office of Mental Retardation and Developmental Disabilities (OMRDD) into a family care home or group home.

EDUCATIONAL RESPONSIBILITY
The public-school district where the family care or group home is located provides educational services.

FINANCIAL RESPONSIBILITY
SED will reimburse the educating district 100% of tuition costs for educating pupils. The Purple Book uses the term district of residence (now referred to as the DISTRICT OF ORIGIN) to define which party pays the basic contribution that is automatically deducted from the district’s state aid.

DETERMINING DISTRICT OF RESIDENCE (ORIGIN)
The public-school district where the child’s parents or legal guardian resided at the time the child was admitted into care and custody of OPWDD is the DISTRICT OF RESIDENCE (ORIGIN).

TRANSPORTATION
The district of current location must provide transportation to and from the site where the child is educated. The transporting district may claim transportation aid and bill the DISTRICT OF RESIDENCE (ORIGIN) for any unreimbursed transportation expenses.

REVENUE (Educating District Where Family Care of Group Home is Located))
Record at A3104 – Tuition for Students with Disabilities – (Chapters 47, 66, 721)
Record at A2304 – Transportation: Shared Services Provided to Other Districts on Contract Buses or District Owned or Operated Buses

EXPENDITURE (District of Origin)
Education – Basic Contribution deducted directly from State Aid the year following attendance. See General Formula Aid Output Report (GEN) Entries 63 through 74. Record transportation expense billed by educating district at A5510.4 and report expense on State Aid Form FT, Schedule I – Contractual Transportation Expenses
Laws and Regulations: Education Law: Section 3202, Subdivision 5a & b; Chapter 47 of the Laws of 1977; Regulations of the Commissioner: Part 200, Part 175, Section 175.6.

PUPILS PLACED IN FAMILY CARE HOMES BY OFFICE OF CHILDREN AND FAMILY SERVICES OR A STATE DEPARTMENT OR STATE AGENCY

Pupils placed in Family Care Homes from a residence other than a developmental center operated by OPWDD  
See: NYS Office of Children and Family Services Form LDSS-2999 “School District Notification of Foster Child Placed in a Foster Family, Agency Boarding or Group Home” appended to the end of this publication

EDUCATIONAL RESPONSIBILITY
The public school where the family care or group home is located provides educational services.

FINANCIAL RESPONSIBILITY
District of Origin shall reimburse the educating district for the cost of education less state aid.

DETERMINING DISTRICT OF ORIGIN
The public-school district where the student resided at the time Office of Children and Family Services or a State Agency assumed responsibility for child.

TRANSPORTATION
The district of current location must provide transportation to and from the site where the child is educated. The transporting district may claim transportation aid and bill the district of residence for any unreimbursed transportation expenses.

REVENUE (Educating District)
Record at A2330 – Day School Tuition – Other Districts in NYS (excluding Special Act districts)  
Record at A2304 - Transportation: Shared Services Provided to Other Districts on Contract Buses or District Owned or Operated Buses

EXPENDITURE (District of Origin)
Record at A2250.471 – Tuition Paid to Public Districts in NYS (excluding Special Act Districts)  
Record transportation expense billed by educating district at A5510.4 and report expense on State Aid Form FT, Schedule I – Contractual Transportation Expenses
**Laws and Regulations:** Education Law: Section 3202, Subdivision 4; Chapter 47 of the Laws of 1977; Regulations of the Commissioner: Part 200, Part 175, Section 175.6.

**CHAPTER 66 - PUPILS WITH DISABILITIES RESIDING IN OPWDD CENTER**

**EDUCATIONAL RESPONSIBILITY**
The public-school district where the center is located provides educational services.

**FINANCIAL RESPONSIBILITY**
SED will reimburse the educating district 100% of tuition costs for educating pupils. District of residence pays a basic contribution which is automatically deducted from the district’s state aid.

**DETERMINING DISTRICT OF RESIDENCE**
The public-school district where the child resided at the time OPWDD assumed responsibility for the support and maintenance of the child is the DISTRICT OF RESIDENCE.

**TRANSPORTATION**
The cost of transporting pupils from the OPWDD center to the public school is paid by OPWDD. The OPWDD center may contract with the school district to provide transportation services.

**REVENUE (Educating District)**
Education - Coded to A3104 – Tuition for Students with Disabilities (Chapters 47, 66, 721)
Transportation - Coded to A2440 – Rental of Buses - If OPWDD contracts with educating district to provide student transportation.

**EXPENDITURE (District of Residence)**
Basic Contribution deducted directly from State Aid the year following attendance. See General Formula Aid Output Report (GEN) Entries 63 through 74.

**Laws and Regulations:** Education Law: Section 3202, Subdivision 5, Paragraph C; Chapter 66 of the Laws of 1978; Regulations of the Commissioner: Part 200 & Part 175, Section 175.6
CHAPTER 721 - CHILDREN RESIDING IN INTERMEDIATE CARE FACILITIES FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES (ICF/OPWDD)

Pupils with disabilities residing in Intermediate Care Facilities licensed by OPWDD who receive educational services by the school district where the ICF is located.

EDUCATIONAL RESPONSIBILITY
The school district where the ICF is located is responsible for providing educational services.

FINANCIAL RESPONSIBILITY
SED will reimburse the educating district 100% of tuition costs for educating pupils. District of residence pays a basic contribution which is automatically deducted from the district’s state aid.

DETERMINING DISTRICT OF RESIDENCE
District where the child resided at the time OPWDD assumed responsibility for the support and maintenance of the child is the DISTRICT OF RESIDENCE.

TRANSPORTATION
Transportation for students residing in an ICF is provided by the school district where the ICF is located. The district must report transportation expenses to STAC and is reimbursed by NYS for these expenses.

REVENUE (Educating District)
Education - Coded to A3104 – Tuition for Students with Disabilities (Chapters 47, 66, 721)
Coded to A3104 – Transportation for Students with Disabilities in an ICF (Chapter 721)

EXPENDITURE (District of Residence)
Basic Contribution deducted directly from State Aid the year following attendance.

Laws and Regulations: Education Law, Section 3202, Subdivision 5, Paragraph d; Regulations of the Commissioner: Part 175, Section 175.6 & Part 200
CHAPTER 947 PUPILS WITH DISABILITIES PLACED IN A RESIDENTIAL TREATMENT FACILITY BY A PUBLIC AGENCY

Pupils with disabilities placed by a public agency in a Residential Treatment Facility (RTF) for children and youth under age 21.

**EDUCATIONAL RESPONSIBILITY**
The child may be served in a public-school district, BOCES or private school. The child may also be served in a special act district operated by the childcare institution.

**FINANCIAL RESPONSIBILITY**
If the student was placed in the RTF by a public agency, and is served by a public-school district, BOCES or private school, the tuition is paid by the local Social Services department or the NYS Office of Mental Health (OMH). District of residence pays a Basic Contribution which is automatically deducted from the district's state aid.

**DETERMINING DISTRICT OF RESIDENCE**
District where the child resided at the time Office of Children and Family Services assumed responsibility for the child is the DISTRICT OF RESIDENCE.

**TRANSPORTATION**
Transportation for students residing in an RTF is provided by the school district where the RTF is located. The transporting district bills the RTF or Office of Children and Family Services (OCFS) for the cost of transportation.

**REVENUE (Educating District)**
Code to A2440 – Rental of Buses – RTF or OCFS if District Billed for Transportation

**EXPENDITURE (District of Residence)**
Basic Contribution deducted directly from State Aid the year following attendance.

**Laws and Regulations**: Education Law: Chapter 947 of the Laws of 1981, Sections 4001-4006; Regulations of the Commissioner: Part 200 & Part 175, Section 17
**Incarcerated Youth**

The Incarcerated Youth Program provides educational services to pupils under 21 who have not received a high school diploma and are incarcerated in a correctional facility maintained by a county or by the City of New York.

**EDUCATIONAL RESPONSIBILITY**
The child may request educational services from the public-school district where the correctional facility is located. The public-school district may contract with BOCES or another public-school district for the provision of the services.

**FINANCIAL RESPONSIBILITY**
The educating district is reimbursed on the following aid formula for 10-month placements. The lesser of: (AOE/TAPU x 1.25) X FTE or Annualized Instructional Costs for Incarcerated Youth plus administrative costs. Minimum of $15,000 per year for each participating district.

The educating district is reimbursed on the following aid formula for 12-month placements. The lesser of: (AOE/TAPU x 1.50) X FTE or Annualized Instructional Costs for Incarcerated Youth plus administrative costs. Minimum of $15,000 per year for each participating district.

District of residence pays a basic contribution equal to the FTE x Basic Contribution for 10-month programs or a basic contribution equal to the FTE x Basic Contribution x 1.20 for 12-month placements.

**DETERMINING DISTRICT OF RESIDENCE**
District where the child resided at the time of incarceration is the DISTRICT OF RESIDENCE.

**TRANSPORTATION**
Transportation not provided. Pupils are educated at the correctional facility site.

**REVENUE (Educating District)**
Code to A3289 – Other State Aid (specify)

**EXPENDITURE (District of Residence)**
Basic Contribution deducted directly from State Aid in the subsequent school year.

**Laws and Regulations:** Education Law: Section 3602: Subdivision 35, Section 3202: Subdivision 7, Chapter 683 of the Laws of 1986; Regulations of the Commissioner: Sections 175.37 & 175.6
Homeless Pupil Education

A homeless child between the ages 5 and 21 who has not received a high school diploma shall be entitled to attend a public school appropriately designated without paying tuition.

Homeless child is defined Education Law Section 3209 as:

1. A child who lacks a fixed, regular, and adequate nighttime resident, including a child who is:
   i. Sharing the house of other persons due to loss of housing, economic hardship or a similar reason;
   ii. Living in motels, hotels, trailer parks or camping grounds due to the lack of alternative adequate accommodations;
   iii. Abandoned in hospitals; or
   iv. A migratory child, as defined in subsection two of section 1309 of the Elementary and Secondary Education Act of 1965, as amended by Every Student Succeeds Act of 2015, who qualifies as homeless under any of the provisions of clauses (i) through (iii) of this subparagraph or subparagraph two of this paragraph;
   v. An unaccompanied youth, as defined in section seven hundred twenty-five of subtitle B of the Title VII of the McKinney-Vento Homeless Assistance Act; or

2. A child who has a primary nighttime location that is:
   i. A supervised publicly or privately-operated shelter designed to provide temporary living accommodations including, but not limited to, shelters operated or approved by the state or local department of social services, and residential programs for runaway and homeless youth established pursuant to article 19-H of the executive law; or
   ii. A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings, including a youth who is living in a car, park, public space, abandoned building, substandard housing, bus or train stations or similar settings.

EDUCATIONAL RESPONSIBILITY

The parent, person in parental relation, the homeless child (where there is no parent) or the director of a home for runaway or homeless children may designate one of the following to be the school district responsible for providing educational services:

- The school district of current location (the school district where the homeless child is currently living in temporary shelter);
- The school district of origin (the school district attended by the homeless child when the child became homeless where this is different than the school district of current location);
- A school district participating in a regional placement plan.
In addition, the designator also has the right to designate one of the following school buildings where a homeless child seeks to attend for instruction:

- The school of origin; or
- Any school that non-homeless children or youth who live in the attendance area in which the child or youth is actually living are eligible to attend, including a preschool.

**FINANCIAL RESPONSIBILITY**

The educating district is reimbursed by SED at the final Non-Resident Tuition Rate for any homeless child that resided in another district within NYS at the time they went homeless. Claim aid for non-resident homeless students through the System to Track and Account for Children (STAC). District of Origin pays the Basic Contribution which is automatically deducted from state aid.

**DETERMINING DISTRICT OF ORIGIN**

The district in which the homeless child attended school (including preschool) when he or she became homeless, which is different from the school district of current location.

**TRANSPORTATION**

Students experiencing homelessness, including preschoolers, are entitled to transportation to school of origin. Students who move into permanent housing are entitled to transportation through the remainder of the school year and an additional year if it is the child’s terminal grade in the school. Students who enroll locally are entitled to comparable transportation as their permanently housed peers receive, and elimination of barriers to enroll in and attend school. Local DSS is responsible for transporting students who meet criteria (Local DSS placed in temporary housing outside the school district where student is enrolled + Emergency Assistance for Families (EAF) eligible student). The types of students affected includes students with individualized education programs (IEPs) and/or specialized transportation services and preschool students. If Local DSS requests that the designated school district of attendance provides or arrange for this transportation, Local DSS should reimburse the school district for the cost as determined by the school district. Students are entitled to transportation to their school of origin through the remainder of the school year, and an additional year if it is the child’s terminal year in the school. Remainder of school-year transportation is provided by the district of attendance, even if student was previously transported by Local DSS. District of attendance is responsible for transportation and may bill the new district of residence for the transportation costs left over after receiving State Aid.

*Residency Determinations pertaining to Homeless Students

The McKinney-Vento Homeless Education Assistance Act, as re-authorized under Every Student Succeeds Act (ESSA), ensures certain educational rights and protections for children and youth who are homeless. This Act requires, among other things, every school district to
have a liaison designated for this population. NYS regulations authorize the parents of homeless children (or others, where parents are not present) to designate their school district of choice, from among the district of origin, the district of current location or a district participating in a regional placement plan.

In 2017, the state regulations relating to the education of homeless children (described in the 1992 SED memo Guidelines Pertaining to Residency Determinations found in Supporting Documentation) were amended (see Attachments on pages 66-76.)

Districts may consult the New York Technical and Educational Assistance Center for Homeless Students for additional information at: http://www.nysteachs.org/

REVENUE (Educating District)
Code to A3289 – Other State Aid (specify)

EXPENDITURE (District of Residence)
Basic Contribution deducted directly from State Aid

Laws and Regulations: Education Law: Section 207, 305 1 & 2, Section 3202: Subdivisions 1 & 8, Section 3209, Subdivision 1-5, Chapter 348 of the Laws of 1988, Chapter 569 of the Laws of 1994, Regulations of the Commissioner: Sections 174.5 & 175.6, & 100.2 (x).

Information regarding state aid for the education of non-resident homeless students may be found on the SED STAC Office webpage at:

Unaccompanied Children and Youth

An unaccompanied youth is a student who is not the physical custody of their parent or legal guardian; this includes young people who have run away from home, have been kicked out of their homes, or have been abandoned by parents. There is no age limit for unaccompanied youth, but these students are most often in their teens. Unaccompanied youth are protected under the McKinney-Vento Act when the student also does not have a fixed, adequate, and regular nighttime residence. In New York State, all students have the right to a free public education until they graduate, or until the school year when they turn twenty-one, whichever comes first. N.Y. Education Law § 3202(1).
There are several SED and federal resources available to address issues and questions regarding unaccompanied children and youth:

- **NYS-TEACHS Website – Unaccompanied Youth**
  [https://nysteachs.org/topics/unaccompanied-youth/](https://nysteachs.org/topics/unaccompanied-youth/)

- **September 2014 SED “Educational Services for Recently Arrived Unaccompanied Children”**

- **August 2010 SED “Student Registration Guidance”**

- **HHS Unaccompanied Children – Frequently Asked Questions**

- **HHS General Information – Unaccompanied Children**

### Foreign Exchange Students

In the Student Information Repository System (SIRS), all students in public school are to be assigned a district of residence code. For foreign exchange students, it is the school district in which they are enrolled. For both SIRS and State Aid purposes, foreign exchange students are treated as residents for the time in which they are enrolled in and attend a NYS school district. They are included in public school enrollment if reported enrolled as of BEDS Day each October.

### Parentally Placed Pupils with Disabilities in Non-Public Schools

Education Law section 3602-c, as amended by Chapter 378 of the Laws of 2007, states that NYS resident students placed by their parents in non-public schools are entitled to receive special education services in accordance with an Individualized Education Services Program (IESP) from the public-school district the non-public school is located within, while they receive general education from the non-public school.

The actual cost for Committee on Special Education (CSE) administration, evaluations and special education services provided to a disabled student who is a resident of NYS, but a non-resident to the district of location (DOL), may be recovered from the student’s school district of residence (DOR). See NYSED memo appended to the end of this guidebook or access this document at the following link:

See Guidance on Reimbursement Claims for the Cost of Providing Special Education Services to Parentally Placed Non-resident Students:

EDUCATIONAL RESPONSIBILITY
The public-school district where the non-public school is located (District of Location (DOL)).

FINANCIAL RESPONSIBILITY
District of Residence (DOR) shall reimburse the District of Location (DOL) for actual net cost of CSE administration, evaluations and special education services.

DETERMINING DISTRICT OF RESIDENCE
The public-school district where the student resides while enrolled in the non-public school.

TRANSPORTATION
The district of residence remains responsible to provide transportation to parentally placed non-public school students to and from the student’s home. However, the school district of location is required to provide a parentally placed non-public elementary or secondary school student with a disability with transportation from the student’s school or home to a service site other than the non-public school and from the service site back to the non-public school or home, depending on the timing of such services, if necessary for the student to receive special education services.

REVENUE (Educating District)
Record at A2330 – Day School Tuition – Other Districts in NYS (excluding Special Act Districts)
Record at A2304 – Transportation: Shared Services Provided to Other Districts on Contract Buses or on District Owned or Operated Buses

EXPENDITURE (District of Residence)
Record at A2250.471 – Tuition Paid to Public Districts in NYS (excluding Special Act Districts)
Record transportation expense billed by educating district in A5510.4

Laws and Regulations: Education Law: Section 3602-c, as amended by Chapter 378 of the Laws of 2007, Section 4402(4)(d)
Billing procedures:

- Costs for evaluations should be calculated using the actual costs for the prorated time of the evaluator for the time spent to administer the evaluation and prepare written report.
- Costs for CSE administration should be calculated using the actual costs for the actual time spent in a CSE meeting by the CSE participants based on hourly cost of their actual salaries and benefits and reasonable administrative costs.
- Costs for provision of special education services should be calculated using actual costs for the prorated time of the services provided to the student, including travel costs for the direct purpose of providing services, less state and federal aid (and any public or third-party insurance benefits collected).
- Parental consent to share personally identifiable information about the student relating to special education between the DOL and DOR is required before the DOL can directly bill the DOR.

1. Parent gives consent to share information between DOL & DOR - Process for DOL to recover its costs from DOR for NYS residents:

   - If parental consent is granted, the DOL is entitled to directly bill the DOR for costs of evaluations, CSE administration & for provision of special education services.
   - The amount charged by the DOL cannot exceed the actual costs to the DOL, after deducting any costs paid for by federal or state funds. See “2008 Guidance on Reimbursement Claims for the Cost of Providing Special Education Services to Parentally-Placed Non-resident Students Pursuant to Education Law Section 3602-c” (link below).
   - EXCEL spreadsheets to determine state aid attributable to parentally placed non-public school students with disabilities are prepared annually by the SED State Aid Office and may be found at: https://stateaid.nysed.gov/speced/.

2. Parent refuses consent to share information between DOL & DOR – Process for submission for reimbursement of claims to the NYS Education Department (NYSED) for payment of a non-resident parentally placed non-public school student with a disability:

   - If a parent refuses to give consent for information to be shared between DOL and DOR, the DOL may submit a claim to NYSED for reimbursement of costs incurred to provide special education services. See NYSED June 2008 guidance memo for conditions that apply for submissions of claims to NYSED. See attachment #2 in NYSED memo for prescribed form to be used. This guidance memo may be accessed at the following link: http://www.p12.nysed.gov/specialed/publications/policy/reimbursement608-rev1213.pdf.
• Upon approval of claim NYSED will submit the claim to the State Comptroller’s office for an intercept of funds from the DOR to the DOL.

This memo referenced in Items 1 and 2 above also provides useful general guidance on the allowable costs and offsetting revenues associated with DOL to DOR billing procedures for parentally placed non-public school students with disabilities.

**Non-public School Health & Welfare Services**

Section 912 of the Education Law requires public school districts to provide students who attend non-public schools located within the boundaries of the school district the same health and welfare services that are available to students attending the public schools of the district when such services are requested by non-public schools. When a student attending a non-public school lives in another public-school district the Commissioner strongly recommends that the district where the non-public school is located, and the district of student residence are to **enter into a written contract** governing the services to be provided and the reimbursement for such services.

Services that may be requested include but are not limited to all the services performed by a physician, dentist, dental hygienist, school nurse, school psychologist, school social worker and speech/language pathologist.

• Services provided may include:
  o Dental prophylaxis
  o Vision hearing and scoliosis screening tests
  o Recording health histories
  o Physical examination and in-school immunizations
  o Maintaining cumulative health records; and
  o Administering emergency care programs for ill or injured students

• Please note that Section 912 of the Education Law is silent on the question about Occupational Therapy and Physical Therapy costs being included in the Health Welfare Services calculation. As such we do not recommend their inclusion in the calculation of costs attributable to providing Health and Welfare Services.

**Reimbursement for Health & Welfare Services**

The district of location may seek reimbursement for the costs of providing the health and welfare services from the district where the child resides.
Reimbursement should be based on an expense per student.¹

\[
\text{Expense per Student} = \frac{\text{Total Cost of all Health Services}}{\text{Total Pupils Covered}}
\]

Total Cost of all Health Services

- May be based initially on the total amount appropriated in the annual budget of the school district for health and welfare services²

- Should be recomputed based on actual expenditures for all health and welfare services divided by the same pupil count noted above at the conclusion of the school year. Refunds or additional charges should be made based upon this re-computation.

- Additional expenses that may be included in the cost of health and welfare services and billed to other school districts:
  - Health related consumable supplies and materials, travel for health services staff, equipment maintenance and repair fees³
  - Share of the cost of a Director of Pupil Personnel Services based upon the amount of time devoted to the health services program and related matters⁴
  - Costs for health service clerical salaries and benefits⁵

Total Pupils Covered

- Includes resident and non-resident public and non-public school enrollment within the school district (as of BEDS day).⁶ SED has stated there is no requirement that a student attending a non-public school register with the district where they reside. It is therefore not a valid reason for a district to deny payment for health and welfare services.

- SED has stated that if a public-school district operates a state funded full or half-day Pre-K program and a non-public school that receives health and welfare services from the public-school district also offers a Pre-K program like the state grant programs, it is appropriate to include both the public school and non-public school Pre-K enrollment (as of BEDS Day) in the student count used to determine the per student cost for health and welfare billing purposes.

- Students who are legal residents of other states as well as foreign exchange students attending non-public schools in NYS should not be included in the BEDS day enrollment count used to determine the per student cost of health and welfare services.

¹ Decision by Commissioner of Education #13,755
² 1984 SED Health Services Guidance
³ 1984 SED Health Services Guidance
⁴ Decision by the Commissioner of Education # 13,952
⁵ 1984 SED Health Services Guidance
⁶ Ibid.
• Public school districts are not required to provide health and welfare services to students attending non-public schools who are not legal residents of NYS. The non-public school is responsible for providing health and welfare services to any student enrolled who is not a resident of New York State.

• Public school health and welfare service providers may also provide special education services to parentally placed non-public school students. Thus, there is a potential of including expenses in the calculation of the cost of health and welfare services and billing certain of the same expenses as special education services provided to parentally placed non-public school students. The Commissioner of Education has ruled repeatedly that: "No school district should be allowed to profit in any manner from health services rendered to children by charging therefor at a rate in excess of the cost of providing the same or its own pupils." While the overlap of health services with non-public school special education services and related billing procedures have not been the subject of an appeal to the Commissioner of Education, we recommend school officials take steps to separate costs to avoid billing the same expense as both a health service and a special education service.

Additional Information

• Appeals to the Commissioner of Education regarding claims for reimbursement of student health services furnished to private school students who reside in another school district must be filed within thirty days of the end of the school year. See Appeal of the Bd. Of Educ. Of the New Hyde Park UFSD, 57 Ed Dept Rep, Decision #17397.

• If a school district refuses to enter into a contract for the provision of health services to its resident students enrolled in non-public schools located in another school district, they still are required to pay for such services. "Although contracts have not been entered into, the Commissioner has repeatedly held that even if there has not been compliance with the technical requirements of section 912, boards of education are not absolved of their statutory duties to provide and pay for (health) services."\(^7\)

\(^7\) Decision by Commissioner of Education #13,755
ADDITIONAL RESOURCES

- Educational Management Services: Contracts for Health and Welfare Services:

- Decisions of the Commissioner of Education cited in this document:
  Decision #13755: Relates to calculating the expense per student
  Decision #13514: Relates to determining who is responsible for payment (district where
                    student resides, no mention of student being registered)
  Decision #13952: Relates to calculating costs of health services.

- SED Guidance:

- State Office of Religious and Independent Schools (SORIS): (518) 473-8202
Non-Resident Student Billing & Claim Process

Non-Resident Student Requests
Enrollment in District

Register Student

Foster Student

Non-Resident Parental Placement

Count Student in ADA/ADM

Business Office bills Parents using Estimated NRT (for Reg. Ed. only even if student is special ed) or BOE approved rate (never > than Reg. Ed. NRT), less High Cost Aid if applicable plus Transportation

Adjust final bill using Actual NRT rate (if using NRT)

CSE reports Student as Non-Resident attending District Operated program on Form A

CSE responsible district files STAC Forms if eligible

Business Office determines cost of program & bills District of Origin

Use Actual Cost Calculation For Other Public Schools, BOCES & Private SWD Programs

Subtract High Cost & Foundation Aid, if applicable, & Excess Cost Aids per SED Aid Attributable Calc. for Public Placements including BOBES or Private Excess Cost Aid for Private Placements

Bill Quarterly

Adjust final bill to reflect actual expenditures, revenues & enrollment

Use NRT Formula For District Operated Programs

Bill quarterly using Estimated NRT subtracting High Cost Aid if applicable

Adjust final bill using Actual NRT rate

Regular Ed.

Business Office notifies District of Origin of:
- Enrollment date
- Grade level
- Estimated tuition + transportation cost

Bill quarterly using Estimated NRT or BOE Approved rate (never > NRT) plus Transportation

Adjust final bill using Actual NRT Formula (if using NRT)

Information to request:
- DSS 2999 Form
- Date of Enrollment
- District of Origin

Count Student For attendance & enrollment

Special Ed.

CSE determines Level of Service

CSE notifies Business Office of Level of Service

Business Office notifies District of Origin of:
- Enrollment date
- Grade level
- Placement/Services
- Send copy of DSS 2999
- Estimated tuition + transportation cost

Business Office determines cost of program & bills District of Origin

Non-Resident Student Requests
Enrollment in District

Register Student

Foster Student

Non-Resident Parental Placement

Count Student in ADA/ADM

Business Office bills Parents using Estimated NRT (for Reg. Ed. only even if student is special ed) or BOE approved rate (never > than Reg. Ed. NRT), less High Cost Aid if applicable plus Transportation

Adjust final bill using Actual NRT rate (if using NRT)

CSE reports Student as Non-Resident attending District Operated program on Form A

CSE responsible district files STAC Forms if eligible

Business Office determines cost of program & bills District of Origin

Use Actual Cost Calculation For Other Public Schools, BOCES & Private SWD Programs

Subtract High Cost & Foundation Aid, if applicable, & Excess Cost Aids per SED Aid Attributable Calc. for Public Placements including BOBES or Private Excess Cost Aid for Private Placements

Bill Quarterly

Adjust final bill to reflect actual expenditures, revenues & enrollment

Use NRT Formula For District Operated Programs

Bill quarterly using Estimated NRT subtracting High Cost Aid if applicable

Adjust final bill using Actual NRT rate
Billing Procedures for Non-Resident Pupils Enrolled in a Public School

(Foster, District to District Placements, Parental Placement, Certain Chapter Placements)

School districts have the option to provide instruction to non-resident pupils and are entitled to charge a net cost tuition for the instruction of non-resident pupils. Part 174 of the Commissioner's Regulations prescribes the methodology to be used by public school districts in determining the maximum tuition rate to be charged for a non-resident pupil attending a public-school district. The regulations state that the charge shall not exceed the net cost of educating non-resident pupils. In simple terms, the net cost is determined by taking the expenses associated with educating a non-resident pupil, less any revenues generated by that pupil.

There are two methods used to determine the net cost:

Non-resident tuition formula (Seneca Falls formula). This method is used to compute non-resident tuition charges when the accounting records of the school district providing the instruction are not maintained in a manner which would indicate the net cost of educating such pupil. (Generally used for all regular education and special education non-resident students educated in programs within the school district.)

- Computes a basic grade level cost of educational services (excluding special education services) for a non-resident pupil in three grade categories (1/2-day K, Full Day K-6, Secondary 7-12). The basic grade level cost takes into consideration district expenditures, revenues and attendance data. The basic grade level cost can be used to bill other public schools/agencies for regular education pupils and to bill the parents of both non-resident general education students and non-resident students with disabilities.

- Computes an incremental cost for non-resident students with disabilities receiving special education services in a district-operated program. A base amount for K-12 Students with Disabilities (SWD) is computed and considers Foundation Aid that is paid to the educating district on behalf of non-resident pupils. Special education pupils are weighted the same regardless of their level of special education services (1.41) under Foundation Aid, therefore only 1 special education NRT rate applies for students receiving services 60% or more of the day, 20% or more of the week or consultant teacher services.* This incremental cost is added to the grade level cost when determining the net cost for a special education pupil. **

- The Office for Civil Rights of the U.S. Department of Education rendered an opinion in August 1994 indicating that parents of non-resident students with disabilities may not be charged a higher tuition than parents of nondisabled non-resident students. SED recommends that the incremental cost for SWD be used only in computing costs under contracts between a
school district and another public agency. SED recommends that the tuition charged under contracts with parents of non-resident SWD not exceed the grade level non-resident tuition rate or the net cost to the district for educating a nondisabled student using the SED Non-resident Tuition Formula (NRT).

- The State Education Department produces a Non-resident Tuition (NRT) Output Report for both the previous and the current school year. The estimated tuition rate (based on reported budget figures) for the current year can be used to bill during the current year but the tuition rates should be adjusted when the final tuition rates (based on actual expenditures) are issued in the following year.

- The rates calculated on the NRT reports are an average net cost of educating a non-resident pupil. When using the NRT rates, districts should not add any additional costs to these rates except for transportation (see note below).

- The NRT rates represent a net cost and have already considered any aid generated by a non-resident pupil, except for High Cost Aid. If the educating district is the CSE district (foster placements), and the non-resident pupil is eligible for High Cost Aid (direct special education costs exceed 3 x AOE/TAPU), then the High Cost Aid generated via the STAC process should be deducted from the NRT rate.

*Please note*: The consultant teacher services must be rendered for 2 hours per week (except that the CSE may recommend that a SWD who also needs resource room services in addition to consultant teacher services, may receive a combination of such services consistent with the student's IEP for not less than three hours each week).

**Please note**: The Tuition for Special Education Pupils calculated on the Non-resident Tuition Output Report (NRT) is the sum of the Tuition for Regular Education Pupils plus the incremental cost related to providing special education services.
Sample Estimated Non-Resident Tuition Report

District Name:                      State Aid: 2018-2019
District Code:                      Today’s Date:  
Data as of: 

ESTIMATED NONRESIDENT TUITION REPORT (NRT EST) 
FOR 2018-19 SCHOOL YEAR ATTENDANCE 

The nonresident tuition rates below are estimated rates for billing during the 2018-19 school year. When the actual 2018-19 nonresident tuition rates are available in the 2019-20 school year, refunds or additional charges are to be made in accordance with Section 174.2 (a) (6) of the Regulations of the Commissioner of Education.

TUITION CHARGE FOR REGULAR EDUCATION
STUDENTS BASED ON NET COST PER STUDENT:

<table>
<thead>
<tr>
<th>Description</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>HALF DAY K TUITION FOR REGULAR EDUCATION PUPIL</td>
<td>ENT 81</td>
</tr>
</tbody>
</table>
| FULL DAY K-6 TUITION FOR REGULAR EDUCATION PUPIL  | ENT 82 | 8,568
| GRADE 7-12 TUITION FOR REGULAR EDUCATION PUPIL    | ENT 83 | 11,856

TUITION FOR STUDENTS WITH DISABILITIES WHO ARE ELIGIBLE FOR PUBLIC EXCESS COST AID:

<table>
<thead>
<tr>
<th>Description</th>
<th>Rate</th>
</tr>
</thead>
</table>
| HALF DAY K TUITION FOR SPECIAL EDUCATION PUPIL    | ENT 85 | 0
| FULL DAY K-6 TUITION FOR SPECIAL EDUCATION PUPIL  | ENT 86 | 37,604
| GRADE 7-12 TUITION FOR SPECIAL EDUCATION PUPIL    | ENT 87 | 40,892

- Part 174.2(a)(6) of the Commissioner’s Regulations states that refunds or additional charges shall be made after the conclusion of the school year based upon actual revenues, expenditures and average daily attendance. SED calculates actual non-resident tuition rates for the prior school year using actual data. The NRT Output Report provides actual non-resident tuition rates for the prior school year while the NRT-EST Output Report portrays estimated rates for the current school year. These reports are made available in December each year and bills for the prior school year issued to other public schools and parents/guardians of non-resident pupils should be adjusted when the prior year actual tuition rates become available. Go to the State Aid webpage at https://stateaid.nysed.gov/ to access school district specific State Aid Output Reports including the NRT and NRT-EST.
• School districts may adopt policies for accepting non-resident students voluntarily placed by parents or guardians and may set tuition rates for those students, in accordance with state regulations. Tuition rates may not exceed those described by Part 174 of the SED regulations governing the formulation of tuition rates. School districts accepting parental placements would bill the parent/guardian directly. Note that Section 3202 (3) of Education Law states that school districts must deduct from the tuition of the non-resident pupil any school taxes paid on real property within the district owned by the parent/guardian.

• **Net Cost Calculation** – This method is used to compute a non-resident tuition charge for a student for which the district can identify a direct cost of educational services. This billing method is most commonly used for students in BOCES placements and approved private school placements for students with disabilities. The Net Cost calculation is equal to the tuition cost minus any state aid generated by the pupil (See page 46-50). For students with disabilities placed by the resident district CSE in another public-school program, the educating district sometimes bills the actual net cost of special education and related services in lieu of using an SED calculated non-resident tuition rate (NRT). This billing method is reviewed on pages 37-39.
Allowable Expenditures for Determining Per Pupil Special Education Costs

Allowable expenditures are those for direct services provided to a special education pupil as specified on that pupil’s IEP. Such expenses are to be reported by the educating/CSE district using the STAC Online System in order to claim High Cost Aid, if applicable, for services provided to a non-resident disabled student. Allowable expenditures include:

**SALARIES & BENEFITS**

- Classroom special education teacher (divided by # of students with an IEP in the class)
- Classroom teaching assistant (divided by # of students with an IEP in the class)
- One on one teacher aide assigned to a disabled student

**COST OF PROVIDING THE FOLLOWING:**

- Related services specified on the pupil’s IEP including audiology, counseling services, occupational therapy, physical therapy, psychological services, speech pathology, medical services and other appropriate related services
- Adaptive physical education
- Special equipment – must be owned by the district and used by a student with disabilities

The State Aid and Financial Planning Service has an excel spreadsheet that may be used to summarize the actual cost of special education services including related services provided to a student enrolled in a district-operated special education program. It is found at the following website: [https://www.questar.org/services/financial/state-aid-financial-planning/topics/](https://www.questar.org/services/financial/state-aid-financial-planning/topics/)

Once the “Topics” segment of the website opens select “Special Education Reporting/STAC” tab and then “Annual Tuition Summary”.

**DO NOT INCLUDE:**

- Special education transportation costs (except summer which is reported on STAC)
- CSE or Pupil Personnel services expenses
- Regular education teacher salary and benefits
- Any non-special education services
In most instances, a proration of supplies, operations and maintenance, supervisor’s salaries and evaluation costs are not to be included. However, if your district experiences a significant increase in these costs due to an influx of students requiring special education services, you may wish to contact NYSED regarding possible inclusion of these costs.

LAWS AND REGULATIONS

Part 200 Regulations of the Commissioner
Section 4002 (g) Education Law
Section 4401 Education Law

Note: STAC process should be completed for students with disabilities educated in-district for whom direct educational expenses specified on the IEP exceed 3 times the district’s Approved Operating Expense (AOE)/TAPU found at Entry 5 of the Public Excess Cost Aid Output Report (PUB). Access school district specific State Aid Output Reports including the PUB at https://stateaid.nysed.gov/.
Protecting a School District’s Right to Collect Non-Resident Tuition

The following is excerpted from Decision # 14,079 “Appeal of the Board of Education of the Hilton Central School District from action of the Board of Education of City School District of the City of Dunkirk relating to foster care tuition reimbursement”.

The Superintendent of Dunkirk City SD informed Hilton CSD that Dunkirk would not pay foster tuition bills for the 1995-96 school year that were received from Hilton CSD after June 30, 1996. An April 30, 1996 letter from Dunkirk cited rulings of the Commissioner of Education requiring a school district to bill by June 30th of the school year in which services are rendered. Dunkirk subsequently refused, in a letter dated November 1, 1996, to pay 1995-96 foster tuition bills it received from Hilton after June 30, 1996 contending such bills were untimely. The Commissioner of Education ruled in favor of Dunkirk City SD on tuition billing requirements as follows:

“Tuition claims pursuant to Education Law 3202(4)(a) become due at the conclusion of the school year for which such claims are made (Matter of Sanfilippo, 24 Ed. Dept. Reports 81). An appeal involving tuition payments must be commenced within 30 days of the close of the school year for which reimbursement is sought (Appeal of the Board of Education of the Marcellus CSD, et al., 26 Ed. Dept. Reports 510; Matter of the Board of Education of the Walton CSD, 23 Ed. Dept. Reports 216). Therefore, petitioner should have commenced this appeal no later than July 30.1996 with respect to tuition payments for the 1995-96 school year. This appeal was not commenced until January 21, 1997.”

The Commissioner also cited an August 7, 1996 memorandum from then Acting Commissioner Thomas E. Sheldon recommending that to minimize delays in receiving foster care reimbursements from the district of residence, the educating district should submit invoices at least quarterly during the school year and include a copy of Local Department of Social Services Form 2999.
Maximum Tuition Rates to Charge Other School Districts

Upon appeal, the Commissioner of Education has clarified the maximum amount of tuition that may be charged another school district for a non-resident student educated in a district-operated program. The following is quoted from Decision No. 14,610 “Appeal of the Board of Education of the East Moriches Union Free School District from action of the Board of Education of the Center Moriches Union Free School District regarding the payment of non-resident tuition”:

“Having failed to enter into a written agreement (non-resident tuition contract) for the 1999-2000 school year, the rate of tuition must be established pursuant to the provisions of 8 NYCRR Part 174. Section 174.2 provides: “…The charge for the instruction of each non-resident pupil shall not exceed the actual net cost of educating such pupil, a board of education…shall compute the tuition to be charged for the instruction of each non-resident pupil admitted to the schools of such district…, in accordance with… (8 NYCRR 174.2). The use of a particular formula is not necessarily required… Rather, the regulations of the Commissioner provide that a receiving district may utilize its own formula, provided that: (1) its accounting records are maintained in such a manner as would indicate the net cost of educating each non-resident pupil, and (2) the amount charged is not in excess of the actual net cost of educating each such pupil. If however, these two criteria are not met, a receiving district may charge no more than the formula rate, as published on SED’s web site.

“Gregory Illenberg, formerly SED’s Coordinator of State Aid, provided guidance to the parties indicating that a district must maintain its (accounting) records on a per pupil basis in order to charge a rate higher than the formula rate – and that it was highly unlikely that a district would maintain its records in such a manner. Nothing in the affidavit provided by Superintendent Donovan (of respondent Center Moriches UFSD), or any other materials submitted, indicates that respondent did, in fact, maintain its records on a per pupil basis. Accordingly, unless respondent (Center Moriches UFSD) can demonstrate that it has maintained its records on a per-pupil basis, the rate of tuition for the 1999-2000 school year must be computed in accordance with the formula prescribed in 8 NYCRR” 174.2 as published on SED’s web site.” (The NRT Rate)
Checklist for Districts with Resident Students in Foster Care Educated in Another School District

Information the District of Origin should receive from the Educating District:

✓ Letter from educating district indicating:
  ✓ student is now living in foster care in another district
  ✓ copy of LDSS 2999 Form
  ✓ dates of student’s enrollment in the educating district
  ✓ grade level and program type
    o if student is receiving special education services, indicate type of program and level of service
  ✓ estimated cost of educational services
  ✓ estimated cost of transportation

State Aid Form A Entries to be completed by District of Origin:

Form A - Selected entries as follows:

If student is receiving special education services, the FTE should be reported at one of the following Entries:

Entries 28-30 - 60% or more of the day – Resident pupil attending another public school
Entries 40-42 - 20% of the week - Resident pupil attending another public school
Entries 52-54 - Consultant teacher services - Resident pupil attending another public school

The special education student’s FTE should also be reported at:

Entries 55-57 - FTE of Resident Students with Disabilities in Other Public-School District

See: “Time Requirements for Reporting Students with Disabilities - Form A Entries #19 - #58” appended to the end of this document as part of “Supporting Documentation”.

A non-disabled student’s FTE should be reported at:

Entries 59-61 - FTE of Resident Students in Other Public Schools or BOCES
Checklist for Districts with Non-resident Foster Care Students Attending this School District

The Educating District should send the following information to the District of Origin (district where child lived at the time of social services placement in foster care)

✔ Letter to district of origin indicating:
  ✔ student is now living in foster care in this district
  ✔ copy of LDSS 2999 Form
  ✔ dates of student’s enrollment in district
  ✔ grade level and program type
    o if student is receiving special education services, indicate type of program and level of service
  ✔ estimated cost of education services
  ✔ estimated cost of transportation services (if necessary)

State Aid Form Entries to be completed by Educating District:

Student Information Repository System (SIRS) Enrollment Data

Form A - Selected entries as follows:

Students’ attendance should be included in Average Daily Attendance (ADA) and reported on Form A, Schedules A2 (attendance -1st semester) and A4 (attendance 2nd semester). ADA for the entire school year is summarized on Part II of Schedule A4, Entries 12-15.

If non-resident student is receiving special education services in a district operated program, the FTE should be reported at one of the following Entries on Form A:

Entries 22-24 - 60% or more of the day – Non-Resident pupil in district operated program
Entries 34-36 - 20% of the week – Non-Resident pupil in district operated program
Entries 46-48 - Consultant teacher services - Non-Resident pupil attending district operated program

Report FTE of non-resident students including pupils with disabilities on Form A as follows:

Entries 62-64 - FTE of Non-Resident Students in this district

Report foster student to STAC Online for Public High Cost Aid (if student’s program cost exceeds 3 x AOE/pupil on Line 5 PUB Report)
Form A – Reporting FTE of Non-resident Foster Students Attending BOCES Special Education Programs

Although there are no separate entries on Form A to report non-resident students with disabilities enrolled in BOCES special education programs, SED has determined that if a school district has non-residents (typically foster students) and the district CSE has placed these students in BOCES operated special education programs, they may be reported on the Form A entries for resident students enrolled in BOCES SWD programs (see specific entries below). By reporting non-resident students on the Form A entries shown below, they will be included in the pupil count for Foundation Aid - Total Aidable Foundation Pupil Units (TAFPU) and will generate Foundation Aid for the district of location. When billing the district of origin (resident district) for such students, deduct Foundation Aid paid on behalf of all students (disabled and non-disabled) that is found at Entry 115 of the General Aid Output Report (GEN) as well as aid attributable to students with disabilities calculated using the EXCEL spreadsheet prescribed by SED and found on the State Aid webpage. See sample billing on page 46.

Entries 25-27 - 60% or more of the day – Resident pupil in a BOCES program
Entries 34-36 - 20% of the week – Resident pupil in a BOCES program
Entries 46-48 - Consultant teacher services- Resident pupil in a BOCES program

Educating district records revenue related to Non-resident Foster Tuition and Transportation as follows:

- A2230 Day School Tuition – Other Districts in NYS – tuition paid by another school district
- A2304 Transportation: Shared Services Provided to Other Districts on Contract Buses – transportation paid by another school district
- A2304 Transportation: Shared Services Provided to Other Districts on District Owned or Operated Buses – transportation paid by another school district

District of Origin records expense related to Non-resident Foster Tuition and Transportation for nondisabled students as follows:

- A2110.471 Tuition Paid to Public Districts in NYS (excluding Special Act School Districts)
- A5510.4 Transportation Contractual Services. Report detail of expense on Schedule I of Form FT
Record expense related to Non-resident Foster Tuition and Transportation for students with disabilities as follows:

- A2250.471 Tuition Paid to Public Districts in NYS (excluding Special Act School Districts)
- A5510.4 Transportation Contractual Expenses. Report detail of expense on Schedule I of Form FT

NOTE: If your school district accepts non-resident students with tuition paid by parents or guardians record this tuition revenue in revenue code A1311 - Other Day School Tuition (from individuals).
Sample Letter to Notify District of Origin

September 15, 2019

Superintendent of Schools
Tiny Town Central Schools
8 Small St.
Tiny Town, NY  55555

Dear Superintendent,

This letter is to inform you that we have a non-resident pupil(s) placed in foster care in our district. The district the child resided in at the time of placement in foster care was Tiny Town Central School District as listed on the enclosed LDSS 2999 form. In accordance with Section 3202(4) (a) of the Education Law, the cost of instruction shall be borne by the school district the child resided at the time the social services district or state agency assumed responsibility for the placement, support and maintenance of such pupil.

The name(s) of the pupil(s) are listed below:

Name:
Date of Birth:
Date of Placement:
Grade:

Special Education Services: (List type of program and level of service)

Estimated Tuition:
Estimated Net Cost of Transportation Less Aid:

The tuition will be calculated using the (non-resident tuition formula), (the actual cost of special education services including related services less applicable state aid claimed by this district), (the net cost of BOCES tuition less state aid claimed by this district) or (private special education school tuition less state aid claimed by the district). A copy of the applicable (Non-resident Tuition (NRT) Output Report) or (net cost tuition calculation) is attached. The cost to this district for non-resident student transportation after deducting Transportation Aid will be added to the tuition bill. A copy of form LDSS 2999 for the student noted above is included for your reference.
Tuition bills will be sent quarterly commencing November 30, 2019 and the last bill of the 2019-20 school year will be sent before June 30, 2020. This practice is followed as the Commissioner of Education has consistently ruled upon appeal that tuition becomes due and owing at the close of each school year (June 30, 2020 for the 2019-20 school year) and that appeals to the Commissioner related to contested or unpaid bills, in most instances, must be commenced within 30 days of the close of the school year.

Your district will receive a final adjusting bill reflecting any refunds or additional charges based on actual expenditures, revenues and enrollment as soon as practical after the close of the 2019-20 school year in accordance with Section 174.2 (a) (6) of the Regulations of the Commissioner of Education. Please be aware that the State Aid Output Report (NRT) reflecting actual (not estimated) tuition rates for those non-resident students educated, in a particular school year in district-operated programs, is not made available by SED until late November or early December of the subsequent school year. This means the final adjusted bill for non-resident students enrolled during the 2019-20 school year, with tuition charges based upon the NRT, cannot be issued to district of origin/residence before December of 2020. Final adjusted Current Year bills for all other non-resident students including those in BOCES programs or private special education programs will also be issued before the end of December 2020.

If you have any questions, please feel free to contact me.

Sincerely,

School Business Administrator
Utopia Central School District
District to District Placement of Students with Disabilities

In lieu of using a non-resident tuition rate (NRT), some school districts that accept students with disabilities (SWD), placed by the CSE of another school district, calculate the direct cost(s) of providing special education and related services specified on student IEP’s and offset such costs with the applicable categories of State Aid (Foundation and Excess Cost Aid Attributable). This billing procedure is most often used when the actual net cost of special education and related services for a specific student exceeds the applicable NRT rate for a student with a disability (as determined by SED, using the Seneca Falls formula calculated pursuant to Part 174.2 of the Regulations of the Commissioner of Education). (The NRT rates for students with disabilities include both the average net per pupil cost of providing both general education as well as special education to all students educated in district operated programs, by grade level. These rates also reflect the allocation of many other district level operating costs in addition to the direct costs of instruction for all students and related services for students with disabilities.)

While we cannot cite specific policy guidance or reference specific decisions of the Commissioner of Education regarding the use of this billing method for district to district placement of non-resident SWD, we offer the following as advice:

- Using district payroll and other records, aggregate the actual cost of special education services and related services provided to individual students with disabilities educated in district operated programs. School districts routinely aggregate such costs for the purpose of claiming High Cost Aid through the System to Track and Account for Children (STAC).

- The cost of special education and related services specified on a student IEP should be reduced by the applicable categories of State Aid attributable to a child placed by the CSE in another public-school district. These include Foundation Aid per pupil found at Entry 115 of the General State Aid Output Report (GEN) and aid attributable to students with disabilities educated in a public-school program. When placing a disabled child in another public school, the district of residence (sending district) retains CSE responsibility and claims High Cost Aid. Therefore, the educating district should not claim or deduct High Cost Aid from their tuition bill. See pages 48 and 49 of this publication or the web address below for the SED prescribed excel worksheet used to determine aid attributable to SWD in public schools, charter schools or parentally placed in non-public schools including High Cost Aid. https://stateaid.nysed.gov/speced/
• Billing special education program costs less applicable State Aid attributable to students with disabilities appears to be consistent with Part 174.2 of Commissioner’s Regulations requiring school districts to bill actual net cost. However, school district accounting records are not universally maintained to indicate a cost per pupil. Thus, in order to bill for additional costs associated with students educated in district operated programs, the Commissioner of Education has ruled that the non-resident tuition formula (NRT) represents the maximum amount that should be billed to another school district.

• To avoid possible disputes regarding tuition charges and subsequent appeals to the Commissioner of Education, we recommend an educating district enter into a written agreement with a sending school district that specifies how tuition will be determined particularly if the NRT will not be used for billing purposes. The Commissioner of Education typically does not invalidate previously approved and executed contracts between school districts through the appeal process.

• We recommend consistently using either a direct cost billing methodology as noted above or the applicable average NRT rate(s) when billing other school districts for non-resident students with disabilities placed in your school district. Using the most advantageous rate, whichever is higher, on a case by case basis, could be interpreted, if an appeal were filed with the Commissioner of Education, as seeking to profit from the education of non-resident students with disabilities.
Billing and Claim Process: District to District Placement of Students with Disabilities

Use applicable estimated NRT Rate for a student with a disability for billing

OR

Determine estimated cost of special education services & related services for non-resident student (as if calculating cost for reporting to STAC for a public placement)

Deduct estimated Foundation Aid (GEN Entry 115) and Excess Cost Aids per SED Aid Attributable Calculation, but not High Cost Aid, which is to be claimed by CSE district from estimated cost. For district to district placement of SWD, district of residence (sending district) retains CSE responsibility

Bill Quarterly

Send final bill Quarterly

Send final bill after close of school year using Actual NRT

OR

Send final bill to reflect actual cost, offsetting state aid and enrollment
Billing the Net Cost of Transportation for Non-resident Students

For non-resident students in foster care or non-resident students placed in a district by another governmental agency, the educating district (unless indicated otherwise in this publication) may bill the student’s district of residence or another governmental agency for the net cost to district taxpayers for providing these non-resident students with transportation. This is the per student cost of transportation less State Transportation Aid.

The State Education Department has not specified a specific methodology which must be used to determine the appropriate cost per student for non-resident transportation. School districts use a variety of methods to determine a per student cost. The offsetting Transportation Aid should reflect the net costs allowed for aid (after taking deductions for non-allowable pupils and other purpose miles), multiplied by the State Share Ratio for Transportation Aid found at Entry 32 of the Transportation Aid Output Report. School districts should retain documentation of how per student transportation costs and offsetting Transportation Aid allocations were calculated in order to bill other districts for non-resident transportation. Such documentation is necessary to defend and support the district’s claims for reimbursement.

Contract Transportation

For districts that use contract transportation, most can identify the contractual cost associated with a specific route or routes taking a non-resident student to and from school. Dividing the cost of each route by the number of students served yields a cost per student, which can then be offset by a calculated amount of State Transportation Aid to arrive at a net cost for billing purposes. The per student cost associated with a specific route or routes should be reduced by the Non-Allowable pupil decimal % found at Entry 12 of the Transportation Aid Output Report (TRA). The remaining cost after this deduction is then multiplied by the State Share Ratio for Transportation Aid found at Entry 32 of the TRA to determine the amount of Transportation Aid that should offset the assigned per student cost.

Cost per Mile Calculation – District Owned Bus Fleet

Some districts that operate their own bus fleets determine a cost per mile associated with operating the entire student transportation program (including such costs as the operation of Transportation Supervisor’s Office and debt service on borrowings issued to finance the purchase of school buses) and then apply the calculated per mile cost for the entire transportation program to the total annual miles associated with particular school bus routes. The total cost assigned in a particular school year to a particular bus route can then be divided by the number of students transported to establish a cost per student. To determine a cost eligible for Aid, the total cost assigned to a student on a particular bus route should be reduced or adjusted by the non-allowable pupil decimal % found at Entry 12 of the Transportation Aid Output Report (TRA), as well as, the Other Purpose Mile percent found at Entry 10 of the TRA. This adjusted cost multiplied by the State Share Ratio for Transportation Aid found at Entry 32 of the TRA yields that amount of Transportation Aid attributable to a student assigned to a
particular bus route. The cost assigned to a student less the Transportation Aid results in the cost that may be billed on behalf of a non-resident student.

**Average Cost per Student for Transportation Services**

An additional method used by other school districts determines the total cost of a school district’s student transportation program, reduces or offsets the cost of the program by State Transportation Aid and then divides the net remaining total cost by an average number of students transported on district buses and/or contract buses or on public transportation to and from school on a daily basis. The cost of district owned or operated buses is offset by both the Non-Allowable Pupil Decimal and Other Purpose Mile percentage to determine costs eligible for Transportation Aid, while the cost of contract buses and public transportation are offset only by the Non-Allowable Pupil Decimal in order to determine the aid-eligible costs.

We have included, on the pages that follow, a sample methodology that calculates an average net cost per student for transportation after deducting State Transportation Aid. An excel version of this calculation has been posted on the State Aid Planning website at the following address:


Open “Other” tab to access spreadsheet.
**Sample Invoices – Tuition**

**Sample Methodology for Calculating Average Per Pupil Transportation Costs**

*Last Completed School Year Using ST-3 Schedule A4c, Form FT Data and Entries from the Transportation Aid Output Report (TRA)*

**NOTE:** Enter data in Cells Shaded in Blue

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total District Transportation Services</td>
<td>A5510.0</td>
<td>$5,987,000</td>
</tr>
<tr>
<td>Total Garage Building</td>
<td>A5530.0</td>
<td>$650,000</td>
</tr>
<tr>
<td>Employee Benefits - Except Supervisor's Office</td>
<td>FT # 117</td>
<td>$150,000</td>
</tr>
<tr>
<td>Employees Benefits - Supervisor's Office</td>
<td>FT # 118</td>
<td>$820,000</td>
</tr>
<tr>
<td>Term Bonds Principal - Bus purchases</td>
<td>A9702.6</td>
<td></td>
</tr>
<tr>
<td>Serial Bonds Principal - Bus Purchases</td>
<td>A9712.6</td>
<td></td>
</tr>
<tr>
<td>Statutory Bonds Principal - Bus Purchases</td>
<td>A9722.6</td>
<td></td>
</tr>
<tr>
<td>BAN Principal - Bus Purchases</td>
<td>A9732.6</td>
<td>$720,000</td>
</tr>
<tr>
<td>Capital Notes Principal - Bus Purchases</td>
<td>A9742.6</td>
<td></td>
</tr>
<tr>
<td>Installment Purchase Principal - Bus Purchases</td>
<td>A9787.6</td>
<td></td>
</tr>
<tr>
<td>Term Bonds Interest - Bus purchases</td>
<td>A9702.7</td>
<td></td>
</tr>
<tr>
<td>Serial Bonds Interest - Bus Purchases</td>
<td>A9712.7</td>
<td></td>
</tr>
<tr>
<td>Statutory Bonds Interest - Bus Purchases</td>
<td>A9722.7</td>
<td></td>
</tr>
<tr>
<td>BAN Interest - Bus Purchases</td>
<td>A9732.7</td>
<td>$25,000</td>
</tr>
<tr>
<td>Capital Notes Interest - Bus Purchases</td>
<td>A9742.7</td>
<td></td>
</tr>
<tr>
<td>Installment Purchase Debt Interest - Bus Purchases</td>
<td>A9787.7</td>
<td></td>
</tr>
</tbody>
</table>

**A** Total Operating Exp. & Supervisor’s Office $8,352,000

**B** Non-Allowable Pupil Decimal (NAPD) TRA Entry 12 0.0298

**C** Other Purpose Mile Decimal TRA Entry 9 0.0315

**D** State Share Ratio for Transportation Aid TRA Entry 32 0.636

**E** Deduct Non-Allowable Pupils $(A \times B) (248,890)$

**F** Deduct Other Purpose Miles $(A \times C) (263,088)$
<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>G</td>
<td>Total Aid Eligible Operating/Supervisory Expense</td>
<td>$ A - (E + F)</td>
<td>7,840,022</td>
</tr>
<tr>
<td></td>
<td>Contract Transportation – All Except BOCES</td>
<td>A5540.4</td>
<td>$ 120,000</td>
</tr>
<tr>
<td></td>
<td>Public Svc. Transportation - (Buses and Rail) - All</td>
<td>A5550.4</td>
<td>$ -</td>
</tr>
<tr>
<td></td>
<td>Contract Transportation from BOCES</td>
<td>A5581.49</td>
<td>$ -</td>
</tr>
<tr>
<td>H</td>
<td>Subtotal Contract &amp; Public Service Trans.</td>
<td></td>
<td>120,000</td>
</tr>
<tr>
<td>I</td>
<td>Less: Non-Aided Exp. For Athletic Trips &amp; Field Trips</td>
<td></td>
<td>(21,000)</td>
</tr>
<tr>
<td></td>
<td>Included in in A5540.4, A5550.4 &amp; A5581.4</td>
<td>Schedule J</td>
<td>$ -</td>
</tr>
<tr>
<td>J</td>
<td>Contract &amp; Public Svc. Trans. Exp. Regular Routes</td>
<td>(H - I)</td>
<td>99,000</td>
</tr>
<tr>
<td>K</td>
<td>Deduct Non-Allowable Pupils</td>
<td>(J x B)</td>
<td>2,950</td>
</tr>
<tr>
<td>L</td>
<td>Total Aid Eligible Contract &amp; Public Svc. Expense</td>
<td>(J - K)</td>
<td>96,050</td>
</tr>
<tr>
<td>M</td>
<td>Total Aid Eligible Transportation Expense</td>
<td>(G + L)</td>
<td>7,936,072</td>
</tr>
<tr>
<td>N</td>
<td>Transportation Aid on Aid Eligible Expenses</td>
<td>(M x D)</td>
<td>5,047,342</td>
</tr>
<tr>
<td>O</td>
<td>Transportation Expenses NOT Aided</td>
<td>(A + H) - N</td>
<td>3,424,658</td>
</tr>
<tr>
<td></td>
<td>Total Number of Students Transported Daily</td>
<td></td>
<td>4,693</td>
</tr>
</tbody>
</table>

# of Students Transported on District Operated Buses   FT # 127   4,600
# of Students Transported on Contract Buses            FT # 128   28
# of Students Transported on Public Services Carriers (Bus and Rail) FT # 129 -
# of Non-public School Students Transported            FT # 130   65

**Total # of Students Transported (Do not double count any students)** 4,693

Average Cost per Student Transported After Deducting State Aid

(O / P) $ 730
Sample Invoice

Utopia Central School District
Invoice for Non-resident Regular Education Student
Educated in a District Operated Program

Name of Student: Mary Smith
Date of Placement: 9/3/2019
Type of Program: Regular Education
Grade Level: Grade 2

10 Month Tuition Rate - Regular Education
From Non-resident Tuition Output Report (NRT)

(Choose the appropriate tuition rate based upon the grade level of the student)

✓ Half-Day K

✓ Full-Day K- Grade 6 $ 8,568

✓ Grades 7-12

Plus, Transportation Expense Net of State Aid $ 730

Grand Total Tuition and Transportation $ 9,298

(See sample NRT Output Report on Page 25)
Sample Invoice for Non-Resident Special Education Student Educated in District Operated Program

Utopia Central School District
Invoice for Non-resident Special Education Student

Name of Student: John Doe
Date of Placement: 9/3/19
Type of Program: In district 6:1:1 special class + related services per IEP
Grade Level: 5

10 Month Tuition Rate – Special Education
From Non-resident Tuition Output Report (NRT)

Choose the appropriate special education rate based upon the grade level or grade level equivalent of the non-resident student. (NOTE: There is only 1 special education rate for each grade level regardless of level of service since special education students are all weighted the same in Foundation Aid)

K-6 Special Education NRT Rate

*Less: High Cost Aid (if claimed by educating district)
((Actual Tuition – 3 x AOE/Pupil) x Public Excess Cost Aid Ratio)
**Cost for 6:1:1 program and related services = $38,500
Less 3 x AOE/TAPU (Entry 5, PUB) - $36,960
Aidable Excess Cost = $ 1,540
x Aid Ratio (Entry 4, PUB) x .480
= High Cost Aid - 739.20

Net Cost $38,611.80
X student’s FTE X 1.0
Net Cost Tuition to bill district of origin $38,611.80

Plus, Transportation Expense Net of State Aid $ 730.00

Grand Total Tuition and Transportation $39,341.80

Note: Never add the NRT special education rate to the NRT regular education rate as the NRT rates for special education shown on State Aid Output Reports (NRT and NRT-EST) already includes both rates.

*Please note that High Cost Aid must be deducted from the special education NRT rate billed to the district of origin, if such aid can be claimed by the educating district. Typically, the CSE responsible district claims High Cost Aid. For foster students, that is the educating district. If a school district CSE places a special education student in another school district, the district of residence (placing district) is the CSE district and claims High Cost Aid.

**Districts should use the cost that is reported on the STAC form as the starting point for the aid calculation here. Any questions about the appropriate amount to be reported on the STAC form can be addressed with the STAC Unit at SED at 518-474-7116 or omsstac@nysed.gov.
Sample Invoice Non-Resident Special Education Student Educated in BOCES Program

Utopia Central School District
Invoice for Non-resident Student

Name of Student:  Jane Doe
Date of Placement:  9/3/19
Type of Program:  BOCES
Grade Level:  8

The 10-month annualized cost should represent the cost of the program and all related services received by the child and billed by BOCES. Include the methodology used to compute the cost of the program and services with the invoice.

10 Month Annualized Cost:
(Tuition plus Related Services from BOCES bill) $45,000.00

Less: Foundation Aid per Pupil (2018-19 GEN Entry 115) * -$2,270.14

10 Month Annualized Cost Less Foundation Aid per Pupil $42,729.86
Student FTE x 1.0

Annualized Cost Less Foundation Aid Adjusted by Student FTE $42,729.86

Less: State Aid Attributable - Student with a Disability **
Already adjusted for Student FTE
SED recommends using the aid attributable calculation found on their State Aid website when billing another school district for a non-resident student enrolled in a BOCES special education program. Excel spreadsheets for the current and prior school years may be retrieved by going to the link below. https://stateaid.nysed.gov/speced/ -$11,987.00

Net Cost Tuition to Bill District of Origin $30,742.86

Plus, Transportation Expense Net of State Aid $2,150.00

Grand Total Tuition and Transportation $32,892.86
Although there are no separate entries on Form A to report non-resident students with disabilities enrolled in BOCES special education programs, SED has determined that if a school district has non-residents (typically foster students) and the district CSE has placed these students in BOCES operated special education programs, they may be reported on the Form A entries for resident students enrolled in BOCES SWD programs (see specific entries below). By reporting non-resident students on the Form A entries shown below, they will be included in the pupil count for Foundation Aid - Total Aidable Foundation Pupil Units (TAFPU) and will generate Foundation Aid for the district of location. When billing the district of origin (resident district) for such students, deduct Foundation Aid paid on behalf of all students (disabled and non-disabled) that is found at Entry 115 of the General Aid Output Report (GEN).

Entries 25-27 - 60% or more of the day – Resident pupil in a BOCES program
Entries 34-36 - 20% of the week – Resident pupil in a BOCES program
Entries 46-48 - Consultant teacher services - Resident pupil in a BOCES program

**NOTE:** The aid attributable calculation referenced in the sample invoice on the previous page and outlined below is the same one used to determine aid attributable to charter school students or parentally placed non-public school students who receive special education services from a public-school district other than their district of residence. It calculates the amount of state aid that should be deducted from a tuition bill for a non-resident student with disabilities enrolled in a BOCES program. We recommend that a copy of the completed aid attributable calculation be sent along with the tuition bill when billing other school districts. A sample of a completed aid attributable calculation for a non-resident student enrolled in a BOCES special education program follows on the next two pages.
Calculation of Public Excess Cost Aid Attributable to Parentally Placed Non-Resident and Charter School Students for the 2018-19 School Year

The below worksheet is to be used to calculate the Public Excess Cost Aid to be deducted from the billing of actual costs for parentally placed non-public school students receiving services during the 2018-19 school year. For additional information refer to the VESID memo titled Guidance on Reimbursement Claims for the Cost of Providing Special Education Services to Parentally Placed Non-resident Students Pursuant to Education Law Section 3602-c dated June 2008.


Note: This worksheet can also be used to calculate State Aid attributable to a student with a disability attending a Charter School.

Part I: Data Required for Calculation of Public Excess Cost Aid Attributable

To complete items A and B click here

A. Enter the 2004-05 approved operating expense (AOE) per pupil for 2006-07 aid as of SA0708 (See link above to complete)

   $8,110

B. Enter the Public Excess Cost Aid Ratio for 2006-07 aid as of SA0708 (See link above to complete)

   0.484

C. Enter the Service Level Weighting for the 2018-19 School Year:

   a. Enter 1.65 for students receiving services 60% or more of the day, or
   b. Enter .90 for students receiving consultant teacher services or
   c. Enter .90 for students receiving services 20% or more of the school week, but less than 60% of the school day

   Note: If student does not meet any of the criteria in a. b. or c. above, then enter 0 for C. and no further calculation is required.

D. Enter the Full Time Equivalent (FTE) Enrollment of the Student (e.g. 1.000 FTE if services were provided for entire Sept - June school year, 0.500 FTE for half of the school year, etc…) to three decimal places.

   1.000

E. Enter the number 1 ONLY IF service weighting in C. above equals 1.65 AND if the student receives services in a general education classroom for 60% or more of each school day. Otherwise, enter 0.

F. Enter the Approved Operating Expense per Pupil (See Entry #3 of the 2018-19 PUB output report)

   $12,320

G. Enter the Public Excess Cost Aid Ratio (See Entry #4 of the 2018-19 PUB output report)

   0.480
H. Enter the 10 Month Annualized Cost of Direct Special Education Services Provided
   $45,000

I. Increase in Consumer Price Index (CPI) between current year and 2006-07 plus 1 (See Entry #11 of the 2018-19 PUB output report)
   1.2550

J. Enter the Supplemental Public Excess Cost Aid (SPEC) (See Entry #9 of the 2018-19 PUB output report)
   $0

K. Enter 0 if J above is 0; otherwise, enter the Total Unweighted Resident Students with Disabilities FTEs (See 2018-19 ATT output report: Sum of entries 32, 34, 35, 36, 42, 44, 45, 46, 52, 54, 55 & 56)

Part II: Calculation of Public Excess Cost Aid Attributable

1. Formula Excess Cost Aid Attributable:
   \[\text{((Lesser of A or }$9,250) \times B \times C \times D \times I)\]
   $8,128

2. Integrated Setting Aid Attributable:
   \[\text{((Lesser of A or }$9,250) \times .50 \times B \times D \times E \times I)\]
   $0
   Note: This should be $0 for any student for which a 0 was entered in item E above.

3. Public Excess Cost Aid Set-aside (Entry 1 + Entry 2):
   $8,128

4. Greater of 0 or [H minus (three x F)]:
   $8,040

5. If Entry 4 > 0, then Entry 4 x D, Else 0
   $8,040

6. PUBLIC EXCESS HIGH COST AID:
   If Entry 5 > 0, Then Entry 5 x G, Else 0
   $3,859

7. SUPPLEMENTAL PUBLIC EXCESS COST AID:
   If C and J = 0, Then 0, Else \([J \text{ divided by } K] \times D\)
   $0

8. GRAND TOTAL PUBLIC EXCESS COST AID:
   Entry 3 + Entry 6 + Entry 7
   $11,987
Sample Invoice

Utopia Central School District
Invoice for Non-resident Student
in a Private Special Education Placement

Name of Student: Mary Smith
Date of Placement: 9/3/19
Type of Program: Private – Day School
Grade Level: 10

This should represent the amount billed by the private school. Include a copy of the invoice.

10 Month Annualized Cost: 35,000.00 SED determined
(Program cost inc. tuition and related services) tuition rate

School District Basic Contribution -12,994.62 Entry 5, PRI
Aidable Excess Cost 22,005.38
FTE: 1.00
Total Aidable Excess Cost 22,005.38

Private Excess Cost Aid Ratio .847 Entry 8, PRI
Private Excess Cost Aid 18,638.56

Amount to be billed to District of Origin:

Total Cost for Pupil 35,000.00
Less: Private Excess Cost Aid -18,638.56

Net Cost Tuition to Bill District of Origin $16,361.44
Plus, Transportation Exp. Net of State Aid $ 3,480.00

Grand Total Tuition and Transportation $19,841.44
Sample Bill for Parentally Placed Student with Disabilities Attending Non-public School

Utopia Central School District
Invoice for Services to student(s) in Non-public School
6/28/20

In accordance with Chapter 378 of the Laws of 2007, signed into law on July 18, 2007, the following services were provided to the student(s) listed below who were parentally placed in the non-public school listed below within the Samsville CSD.

**Student Name:** John Doe  
**District of Residence:** Utopia CSD  
**Non-public School:** St. Anne’s

**Dates of enrollment:** 9/3/19-6/25/20  
**Services Provided:** Consultant Teacher, 2 hours/wk. for 40 wks. = 80 hours @ $70/hr.  
Adding: Speech, 2x30 individual for 40 wks. = 80 sessions @ $40.00/session

**CSE Meeting Date(s):** 9/10/19, 4/24/20 (2 meetings each ½ hour)  
**Initial Evaluation Date:** 9/6/19 (6 hours)  
**Re-Evaluation Date:** N/A

<table>
<thead>
<tr>
<th>Staff</th>
<th>Rate/hour or # of hours</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consultant Teacher</td>
<td>$70.00</td>
<td>80</td>
</tr>
<tr>
<td>Speech Teacher</td>
<td>$40.00</td>
<td>80</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Less State Aid (based on calculation in SED memo) $2,247  
Less Federal Funds (based on SED website, see memo) $1,135  
**Total Net Cost for Services:** $5,418

**Cost for CSE meeting:**  
- CSE Chairperson: $68.00 x 1 = $68  
- Psychologist: $50.00 x 1 = $50  
- SE Teacher: $70.00 x 1 = $70  
**Total Cost for CSE meeting:** $188

**Cost for Evaluation:**  
- Psychologist: $50.00 x 6 = $300
**Total Cost for Evaluation:** $300

**Total Cost Summary:**  
- Services = $5,418  
- CSE = $188  
- Evaluations = $300  
**Total Cost =** $5,906
Billing for Non-resident Students in BOCES Career and Technical Education (CTE) Programs

The State Aid and Financial Planning Service has been asked by some of our member school districts how best to determine the net cost to the district of location for the education of a non-resident foster care student placed in a Career and Technical Education Program operated by a BOCES. Absent specific guidance from the NYSED, we offer the following methodology as one potential solution in determining the cost of Non-resident Students in a BOCES CTE Program.

1. Determine the per student tuition charge assessed by BOCES for the non-resident foster student enrolled in a career education program by the district where the student’s foster residence is located.

2. Calculate the average percentage share of career education tuition eligible for BOCES Aid by going to the COMPONENT SCHOOL DISTRICT BOCES AID OUTPUT REPORT (CMP) for your school district. This report is on the list of State Aid Output Reports for each school district provided on the SED State Aid website at: http://stateaid.nysed.gov. Divide “TOTAL AIDABLE SERVICE EXPENSE - CAREER EDUCATION” found at Entry 28 of the CMP Report by “SERVICE EXPENSE ALLOCATED TO THIS COMPONENT (FOR CAREER EDUCATION) found at Entry 21 of the CMP Report.

3. Multiply the per student tuition charge from Item 1 above by the percentage share of such tuition that is eligible for BOCES Aid as determined above in Item 2. The result is the aid eligible amount of tuition charged for the non-resident foster student.

4. Multiply the amount of tuition eligible for aid from Item 3 by the Selected BOCES Sharing Ratio for Service Aid found at Entry 12 of the BOCES CMP Output Report (Minimum of .360, Maximum .900). The result is a reasonable approximation of the amount of BOCES Aid payable on behalf of a student enrolled in a BOCES career and technical education program.

5. Reduce the per student tuition charge from Item 1 by the BOCES Aid payable on behalf of a non-resident student as calculated in Item 4. This is the net tuition that may be charged to the foster child’s district of residence for BOCES Career and Technical Education.

6. Most students enrolled in career and technical education programs attend such programs at BOCES for approximately half the school day. Such students usually attend classes at a high school in the district of location for the rest of the school day. Thus, we recommend that the educating district determine a reasonable share of the non-resident tuition rate for a secondary student (as determined by SED an NRT Output Report) that should be charged to the district of residence. We recommend basing it upon the average number of class periods per day the student receives instruction in the district schools divided by the average number of periods per day in the district’s high school schedule.
NOTE: See screen capture below showing the relevant segments of the BOCES CMP State Aid Output Report for a sample school district followed by a sample calculation of estimated BOCES Aid attributable to a non-resident foster student enrolled by the district of location in a BOCES Career and Technical Education Program.

<table>
<thead>
<tr>
<th>Component</th>
<th>Description</th>
<th>Formula</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>12</td>
<td>Selected BOCES Sharing Ratio for Admin and Service Aid</td>
<td>(Lesser of Ent 11 or .900)</td>
<td>0.632</td>
</tr>
<tr>
<td>21</td>
<td>Service Expense Allocated to This Component</td>
<td>(Component Allocations Forms)</td>
<td>490,134</td>
</tr>
<tr>
<td>22</td>
<td>Refund of Prior Years Expense - Career Education</td>
<td>(Component Allocations Forms)</td>
<td>1,687</td>
</tr>
<tr>
<td>23</td>
<td>Excess Salaries: This BOCES - Career Education</td>
<td>(Schedule E)</td>
<td>119,197</td>
</tr>
<tr>
<td>24</td>
<td>Excess Salaries: Other BOCES - Career Education</td>
<td>(Schedule X)</td>
<td>7,630</td>
</tr>
<tr>
<td>25</td>
<td>Unapproved Services: This BOCES - Career Education</td>
<td>(Unapproved Services Forms)</td>
<td>0</td>
</tr>
<tr>
<td>26</td>
<td>Unapproved Services: Other BOCES - Career Education</td>
<td>(Unapproved Services Forms)</td>
<td>0</td>
</tr>
<tr>
<td>27</td>
<td>Other Miscellaneous Allocated Deductions - Career Education</td>
<td>(Other Miscellaneous Allocated Deductions Component Allocation Forms)</td>
<td>361,620</td>
</tr>
</tbody>
</table>

TOTAL AIDABLE SERVICE EXPENSE - CAREER EDUCATION

361,620
Appeals to the Commissioner and Court Action

Tuition becomes due at the completion of the school year. There is no statute that states when an educating district must bill the resident district. While there is no guide for billing and no limitation on how far back to bill, it is most likely that districts will receive payment for the most recent year’s claims. However, districts should be aware that Commissioner’s Decisions have addressed the timeliness of claims for back tuition. If a district chooses to pursue a formal claim for tuition reimbursement, the following legal parameters must be followed.

A. Educating district bills district of residence during school year of attendance.

   NOTE: The Commissioner of Education has repeatedly dismissed as untimely appeals for payment where tuition bills for non-resident foster students are issued after the close of a school year for which reimbursement is sought. “It is well settled that tuition claims pursuant to Education Law §3202(4)(a) become due at the conclusion of the school year for which such claims are made.” Thus, to protect a district’s right to appeal either a refusal to pay tuition bills or when such bills are ignored, bills must be issued before the June 30th close of each school year. See Item # 1 under letter C below for time limits on appeals to the Commissioner.

B. District of residence refuses to pay or does not respond to repeated bills.

C. Educating district has 2 options to claim unpaid tuition:

   1. Appeal to the Commissioner of Education

      a. An appeal to the Commissioner must be made within 30 days from the date amount claimed was originally denied or if the district merely ignores the claim, within 30 days of the close of the school year for which payment is due.

   2. Pursue court action against resident district

      a. If court action is pursued, within 3 months of refusal to pay, educating district must submit a “written verified claim” to the district of residence board of education stating that legal action will be taken for reimbursement of unpaid tuition.

      b. If the district of residence fails to make payment within 30 days after the formal claim is given, the educating district may proceed with court action.

      c. If court action is pursued, the educating district has a 1-year statute of limitation per subdivision 2-b of §3813 to commence legal action. The year begins on the date payment for the amount claimed was originally denied.
NOTE: Based upon past precedent, the state courts can be expected to dismiss a complaint related to the payment of foster tuition (even if legal action is commenced within the one-year time limit noted above) when initial foster tuition bills are issued by the educating school after the close of a school year, given the precedent long established by the Commissioner of Education on appeal that tuition claims are due at the conclusion of the school year for which such claims are made and that school districts must issue bills before the close of the school year (on or before June 30th) in order for such bills to be considered timely.

D. If resident school district, ordered by court or commissioner to pay tuition, fails to pay in 90 days, the educating district may apply to the Commissioner to have payment deducted from the resident district’s state aid. If the resident district does not make payment within 30 days of application, SED will deduct delinquent payment from future state aid payments.

Legal References:  Education Law Section 3202, Section 3813
    Regulations of the Commissioner of Education Part 275.16
    Matter of Board of Education Greenville, 16, Ed. Dept. 329 (1977)
    Matter of Board of Education Yorktown, 17, Ed. Dept. 5 (1977)
    Matter of Board of Education Marcellus, 26, Ed. Dept. 510 (1977)
Supporting Documentation

DSS-2999 Form [https://ocfs.ny.gov/main/Forms/Foster_Care/OCFS-LDSS-2999.dot](https://ocfs.ny.gov/main/Forms/Foster_Care/OCFS-LDSS-2999.dot) (click on link or see examples included on pages 57-58)

Time Requirements for Reporting Students with Disabilities – Form A Entries # 19 - #58


CHILD ENTERING FOSTER CARE (FULL NAME):  

DATE OF BIRTH OR APPARENT AGE:  

ADDRESS OF CHILD WHEN CHILD ENTERED FOSTER CARE:  

GENDER:  

DATE CHILD ENTERED FOSTER CARE:  

DATE CHILD LEFT FOSTER CARE:  

FOSTER PARENT’S NAME(S):  

(AREA CODE) TELEPHONE NO.:  

( )  

FOSTER PARENT’S NAME(S):  

(AREA CODE) TELEPHONE NO.:  

( )  

ADDRESS OF FOSTER PARENT(S):  

NAME:  

ADDRESS:  

NAME OF SCHOOL DISTRICT CHILD RESIDED IN WHEN CHILD ENTERED FOSTER CARE (District of origin):  

ADDRESS OF SCHOOL DISTRICT OF ORIGIN:  

NAME OF SCHOOL DISTRICT LAST ATTENDED (If different from above):  

ADDRESS OF SCHOOL DISTRICT LAST ATTENDED:  

TO (School district child is attending, include full address):  

FROM (County department of social services, include full address):  

Date entered this district / /  

Does child have an IEP? NO YES  

Pursuant to Section 445.1 of the Social Services Regulations, I am notifying you of the foster care placement of the above-named child. For additional information regarding this notification, please contact:  

CONTACT PERSON (Please print name):  

TITLE:  

(AREA CODE) TELEPHONE NO.:  

( )  

NAME OF SOCIAL SERVICES COMMISSIONER CHARGED WITH CARE OF CHILD:  

ADDRESS OF SOCIAL SERVICES COMMISSIONER CHARGED WITH CARE OF CHILD:  

NAME OF AUTHORIZED AGENCY ACTING FOR COMMISSIONER:  

ADDRESS OF AUTHORIZED AGENCY ACTING FOR COMMISSIONER:  

SIGNATURE OF COMPLETING OFFICIAL:  

TITLE:  

DATE:  

EMAIL:  

(AREA CODE) TELEPHONE NO.:  

( )  

NAME OF CASEWORKER (Please Print):  

( )  

( )  

COMMENTS:  

COMPLETE AND TRANSMIT WITHIN 10 DAYS OF CHILD ENTERING FOSTER CARE.  

One copy to originating agency, one copy to school district child now attends, and
INSTRUCTIONS
(Please print all information clearly)

In the first bold box
- Enter name, address, and date of birth, OR age of child entering foster care.
- Enter the gender of the child entered into the foster care system.
- Enter date child entered and left the foster care system.
- Enter foster parent’s name and phone number.
- Enter address of foster parents OR if applicable, enter name, address of guardian, agency boarding OR group home.
- Enter parent’s name(s), address, phone number only if child is home on trial basis (HOTB)
- Enter name, address, and phone number of the school district the child resided in when the child entered foster care.
- Enter name of the school district the child last attended if different from the one entered above.

In the second bold box
- Enter the school district the child is attending.
- Enter the county department of social services handling foster care.
- Enter the date the child entered the district.
- Does the child have an Individualized Education Plan (IEP)?
- Enter a contact person’s printed name and his/her phone number.

In the third bold box
- Enter the name and address of the social services commissioner charged with care of the child.
- Enter the name and address of the authorized agency acting for the commissioner.
- Signature of the completing official, his/her title, phone number, email, and date.

In the last box
- Print the name of the social services caseworker, his/her area code and phone number.
- Comments the social services caseworker may have.

Distribution of copies: One copy to LDSS, one copy to school district of attendance, and one copy to school district of origin, if different.
### TIME REQUIREMENTS FOR REPORTING STUDENTS WITH DISABILITIES

**FORM A ENTRIES #19-#58**

#### TOTAL STUDENTS WITH DISABILITIES (SWD)

**60% OR MORE OF THE SCHOOL DAY**

**Entries 19-30 (ACTUAL) Current Year Full-Time Placements**

The following entries relate to pupils with disabilities spending 60% or more of the school day in a special education class, service program or receiving home or hospital instruction for 60 days or more. 60% or more of the day equals 3 hours per day for grades K-6 and 3 ½ hours per day for grades 7-12.

These entries reflect Current Year full-time equivalent enrollment of PWD:

<table>
<thead>
<tr>
<th>Description</th>
<th>Entries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resident pupils in district operated programs</td>
<td>19-21</td>
</tr>
<tr>
<td>Non-resident pupils in district operated programs</td>
<td>22-24</td>
</tr>
<tr>
<td>Resident pupils attending BOCES operated programs</td>
<td>25-27</td>
</tr>
<tr>
<td>Resident pupils attending another public school district</td>
<td>28-30</td>
</tr>
</tbody>
</table>

**Do not include** pupils in a dual enrollment status from a non-public school; 4405 private school placements including Section 4402 & 4407 pupils; placements in state operated schools for the blind or deaf (Batavia or Rome); pupils in a state supported school for the blind or deaf (Section 4201); placements in a special act school; non-resident homeless or runaway homeless pupils eligible for Homeless Aid (Ed. Law, Section 3202, subdivision 8); and OMRDD pupils under Chapters 47 (group homes), 66 (OMRDD centers), and 721 (Intermediate Care Facilities).

**Pupils in ungraded classes** should be counted in the following manner based on their ages as of September 1: K-3 less than 9 years of age; 4-6 if ages 9-12; 7-12 if 13 years or older. Enter the total full-time equivalent (FTE) by school of placement for each grade grouping (K-3, 4-6 or 7-12) to two decimal places without rounding. Each pupil should be counted only one time.

*The FTE’s of pupils served in district operated and BOCES programs are included in the Total Aidable Pupil Unit (TAPU) for Expense pupil count that is used to calculate AOE/pupil and in Total Aidable Foundation Pupil Units (TAFPU), a pupil count used in the Foundation Aid formula. Resident pupils are also used in determination of district wealth (Combined Wealth Ratio-CWR) by inclusion in the Total Wealth Pupil Unit (TWPU) pupil count.*
Entries 19-30 (PROJECTED) Estimated Upcoming Year Full Time Placements
The following entries relate to pupils with disabilities spending 60% or more of the school day in a special class, service program or receiving home or hospital instruction for 60 days or more. 60% or more of the day equals 3 hours per day for grades K-6 and 3 ½ hours per day for grades 7-12.

These entries reflect estimated Upcoming Year full-time equivalent enrollment of PWD:
FTE= the total number of weeks the pupil is enrolled divided by the total number of weeks of the program. Three consecutive days of enrollment within the same week and month count as a week of enrollment. Count no more than 4 weeks per month.

<table>
<thead>
<tr>
<th>Category</th>
<th>Entries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resident pupils in district operated programs</td>
<td>19-21</td>
</tr>
<tr>
<td>Non-resident pupils in district operated programs</td>
<td>22-24</td>
</tr>
<tr>
<td>Resident pupils attending BOCES operated programs</td>
<td>25-27</td>
</tr>
<tr>
<td>Resident pupils attending another public school district</td>
<td>28-30</td>
</tr>
</tbody>
</table>

Do not include pupils in a dual enrollment status from a non-public school; 4405 private school placements including Section 4402 & 4407 pupils; placements in state operated schools for the blind or deaf (Batavia or Rome); pupils in a state supported school for the blind or deaf (Section 4201); placements in a special act school; non-resident homeless or runaway homeless pupils eligible for Homeless Aid (Ed. Law, Section 3202, subdivision 8); and OMRDD pupils under Chapters 47 (group homes), 66 (OMRDD centers), and 721 (Intermediate Care Facilities).

Pupils in ungraded classes should be counted in the following manner based on their ages as of September 1: K-3 less than 9 years of age; 4-6 if ages 9-12; 7-12 if 13 years or older. Enter the total full-time-equivalent (FTE) by school of placement for each grade grouping (K-3, 4-6 or 7-12) to two decimal places without rounding. Each pupil should be counted only one time.

*The FTE's of pupils served in district operated and BOCES programs are included in the Total Aidable Pupil Unit (TAPU) for Expense pupil count that is used to calculate AOE/pupil and in Total Aidable Foundation Pupil Units (TAFPU), a pupil count used in the Foundation Aid formula. Resident pupils are also used in the determination of district wealth (Combined Wealth Ratio-CWR) by inclusion in the Total Wealth Pupil Unit (TWPU) pupil counts.
PLACEMENTS 20% OR MORE OF WEEK

Entries 31-42 (ACTUAL) Current Year Placements 20% or More of Week
Enter the FTE of pupils with disabilities spending 20% or more of the school week in a resource
room, special service or program. The time requirements for elementary pupils (20% or more
of the week) are 5 hours or more per week-not 5 periods. The time requirements for pupils
enrolled in grades 4-12 that operate on a period basis may be 5 periods but not less than 180
minutes per week. Count each pupil only one time.

These entries reflect Current Year placements for 20% or more of the school week:

FTE= the total number of weeks the pupil is enrolled divided by the total number of weeks of
the program. Three consecutive days of enrollment within the same week and month count as
a week of enrollment. Count no more than 4 weeks per month.

Resident pupils in district operated programs Entry 31-33
Non-resident pupils in district operated programs Entry 34-36
Resident pupils attending BOCES operated programs Entry 37-39
Resident pupils attending another public school district Entry 40-42

Do not include pupils in a dual enrollment status from a non-public school; 4405 private school
placements including Section 4402 & 4407 pupils; placements in state operated schools for the
blind or deaf (Batavia or Rome); pupils in a state supported school for the blind or deaf (Section
4201); placements in a special act school; non-resident homeless or runaway homeless pupils
eligible for Homeless Aid (Ed. Law, Section 3202, subdivision 8); and OMRDD pupils under
Chapters 47 (group homes), 66 (OMRDD centers), and 721 (Intermediate Care Facilities).

Pupils in ungraded classes should be counted in the following manner based on their ages as
of September 1: K-3 less than 9 years of age; 4-6 if ages 9-12; 7-12 if 13 years or older. Enter
the total full-time-equivalent (FTE) by school of placement for each grade grouping (K-3, 4-6 or
7-12) to two decimal places without rounding. Each pupil should be counted only one time.

*The FTE’s of pupils served in district operated and BOCES programs are included in the Total
Aidable Pupil Unit (TAPU) for Expense pupil count which is used to calculate AOE/pupil and in
Total Aidable Foundation Pupil Units (TAFPU), a pupil count used in the Foundation Aid
formula. Resident pupils are also used in the determination of district wealth (Combined Wealth
Ratio-CWR) by inclusion in the Total Wealth Pupil Unit (TWPU) pupil counts.
Entries 31-42 (PROJECTED) Est. Upcoming Year Placements 20% or More of Week
Enter the estimated FTE of pupils with disabilities spending 20% or more of the school week in a resource room, special service or program. The time requirements for elementary pupils (20% or more of the week) are 5 hours or more per week-not 5 periods. The time requirements for pupils in grades 4-12 enrolled in a period-based school program (20% or more of the week) may be 5 periods but not less than 180 minutes per week. Count each pupil only one time.

These entries reflect estimated Upcoming Year placements for 20% or more of the school week:

FTE= the total number of weeks the pupil is enrolled divided by the total number of weeks of the program. Three consecutive days of enrollment within the same week and month count as a week of enrollment. Count no more than 4 weeks per month.

- Resident pupils in district operated programs
- Non-resident pupils in district operated programs
- Resident pupils attending BOCES operated programs
- Resident pupils attending another public school district

Do not include pupils in a dual enrollment status from a non-public school; 4405 private school placements including Section 4402 & 4407 pupils; placements in state operated schools for the blind or deaf (Batavia or Rome); pupils in a state supported school for the blind or deaf (Section 4201); placements in a special act school; non-resident homeless or runaway homeless pupils eligible for Homeless Aid (Ed. Law, Section 3202, subdivision 8); and OMRDD pupils under Chapters 47 (group homes), 66 (OMRDD centers), and 721 (Intermediate Care Facilities).

Pupils in ungraded classes should be counted in the following manner based on their ages as of September 1: K-3 less than 9 years of age; 4-6 if ages 9-12; 7-12 if 13 years or older. Enter the total full-time-equivalent (FTE) by school of placement for each grade grouping (K-3, 4-6 or 7-12) to two decimal places without rounding. Each pupil should be counted only one time.

*The FTE's of pupils served in district operated and BOCES programs are included in the Total Aidable Pupil Unit (TAPU) for Expense pupil count which is used to calculate AOE/pupil and in Total Aidable Foundation Pupil Units (TAFPU), a pupil count used in the Foundation Aid formula. Resident pupils are also used in the determination of district wealth (Combined Wealth Ratio-CWR) by inclusion in the Total Wealth Pupil Unit (TWPU) pupil counts.
CONSULTANT TEACHER SERVICES

Entries 43-54 Consultant Teacher Services
Enter pupils with disabilities being served by direct and/or indirect consultant teacher services for a minimum of two hours each week in accordance with their IEP's.

**Direct consultant teacher services** are defined as specially designed individualized or group instruction, provided by a certified special education teacher, to a pupil with a disability to aid and benefit the pupil's regular education program.

**Indirect consultant teacher services** are defined as consultation provided by a certified special education teacher to regular education teachers, to assist them in adjusting to the learning environment and/or instructional methods to meet the needs of the pupils receiving direct consultant teacher services who attend their classes.

Entries 43-54 (ACTUAL) Current Year Consultant Teacher Services
These entries reflect Current Year placements for consultant teacher services:
FTE= the total number of weeks the pupil is enrolled divided by the total number of weeks of the program. Three consecutive days of enrollment within the same week and month counts as a week of enrollment. Count no more than 4 weeks per month.

- Resident pupils in district operated programs Entries 43-45
- Non-resident pupils in district operated programs Entries 46-48
- Resident pupils attending BOCES operated programs Entries 49-51
- Resident pupils attending another public school district Entries 52-54

Do not include pupils in a dual enrollment status from a non-public school; 4405 private school placements including Section 4402 & 4407 pupils; placements in state operated schools for the blind or deaf (Batavia or Rome); pupils in a state supported school for the blind or deaf (Section 4201); placements in a special act school; non-resident homeless or runaway homeless pupils eligible for Homeless Aid (Ed. Law, Section 3202, subdivision 8); and OMRDD pupils under Chapters 47 (group homes), 66 (OMRDD centers), and 721 (Intermediate Care Facilities).

Pupils in ungraded classes should be counted in the following manner based on their ages as of September 1: K-3 less than 9 years of age; 4-6 if ages 9-12; 7-12 if 13 years or older. Enter the total full-time-equivalent (FTE) by school of placement for each grade grouping (K-3, 4-6 or 7-12) to two decimal places without rounding. Each pupil should be counted only one time.

*The FTE’s of pupils served in district operated and BOCES programs are included in the Total Aidable Pupil Unit (TAPU) for Expense pupil count that is used to calculate AOE/pupil and in Total Aidable Foundation Pupil Units (TAFPU), a pupil count used in the Foundation Aid
Resident pupils are also used in the determination of district wealth (Combined Wealth Ratio-CWR) by inclusion in the Total Wealth Pupil Unit (TWPU) pupil counts.

Entries 43-54 (PROJECTED) Est. Upcoming Year Consultant Teacher Services

These entries reflect estimated Upcoming Year placements for consultant teacher services:

FTE= the total number of weeks the pupil is enrolled divided by the total number of weeks of the program. Three consecutive days of enrollment within the same week and month count as a week of enrollment. Count no more than 4 weeks per month.

- Resident pupils in district operated programs Entries 43-45
- Non-resident pupils in district operated programs Entries 46-48
- Resident pupils attending BOCES operated programs Entries 49-51
- Resident pupils attending another public school district Entries 52-54

Do not include pupils in a dual enrollment status from a non-public school; 4405 private school placements including Section 4402 & 4407 pupils; placements in state operated schools for the blind or deaf (Batavia or Rome); pupils in a state supported school for the deaf or blind (Section 4201); placements in a special act school; non-resident homeless or runaway homeless pupils eligible for Homeless Aid (Ed. Law, Section 3202, subdivision 8); and OMRDD pupils under Chapters 47 (group homes), 66 (OMRDD centers), and 721 (Intermediate Care Facilities).

Pupils in ungraded classes should be counted in the following manner based on their ages as of September 1: K-3 less than 9 years of age; 4-6 if ages 9-12; 7-12 if 13 years or older. Enter the total full-time-equivalent (FTE) by school of placement for each grade grouping (K-3, 4-6 or 7-12) to two decimal places without rounding. Each pupil should be counted only one time.

*The FTE’s of pupils served in district operated and BOCES programs are included in the Total Aidable Pupil Unit (TAPU) for Expense pupil count which is used to calculate AOE/pupil and in Total Aidable Foundation Pupil Units (TAFPU), a pupil count used in the Foundation Aid formula. Resident pupils are also used in the determination of district wealth (Combined Wealth Ratio-CWR) by inclusion in the Total Wealth Pupil Unit (TWPU) pupil counts.
ADDITIONAL WEIGHTED AVERAGE DAILY ATTENDANCE OF
FULL-TIME RESIDENT STUDENTS WITH DISABILITIES
IN OTHER PUBLIC SCHOOL DISTRICT PROGRAMS

Entries 55-57 (ACTUAL) are used in the computation of Resident Weighted Average Daily
Attendance (RWADA) and Total Wealth Pupil Units (TWPU). Enter the FTE’s of pupils with
disabilities who are residents of your district but are enrolled in another public school district
full-time. Report Current Year placements as follows:

- Full-time resident SWD in other school districts; K-3 Entry 55
- Full-time resident SWD in other school districts; 4-6 Entry 56
- Full-time resident SWD in other school districts; 7-12 Entry 57

These entries reflect resident full-time students with disabilities attending other public schools.
Include resident foster pupils with disabilities attending other public schools. Often these entries
are like Entries 28, 29 and 30. However, do not transfer the FTE’s from 28-30 unless all pupils
were enrolled in other public schools as full-time students. Pupils in ungraded classes should
be counted in the following manner based on their ages as of September 1, 2016: K-3 less
than 9 years of age; 4-6 if ages 9-12; 7-12 if 13 years or older.

Do not include pupils in a dual enrollment status from a non-public school; 4405 private school
placements including Section 4402 & 4407 pupils; placements in state operated schools for the
blind or deaf (Batavia or Rome); pupils in a state supported school for the blind or deaf (Section
4201); placements in a special act school; non-resident homeless or runaway homeless pupils
eligible for Homeless Aid (Ed. Law, Section 3202, subdivision 8); and OMRDD pupils under
Chapters 47 (group homes), 66 (OMRDD centers), and 721 (Intermediate Care Facilities).

Entry 58 Not Used
SED Memo: Guidelines Pertaining to Residency Determinations

December, 1992

TO: District Superintendents
    Superintendents of Schools
    School District Attorneys

FROM: Lizette A. Cantres

SUBJECT: Guidelines Pertaining to Residency Determinations

In September 1990, the Office of Counsel prepared a memorandum pertaining to residency determinations. This latest publication provides an update that incorporates relevant developments in case law pertaining to residency and amendments to Commissioner's regulations pertaining to runaway and homeless youth. The memorandum is intended to serve as a guide to districts in adopting and reviewing student policies on residency and to ensure that proper procedures are followed.

Education Law §3202(1) provides that "[a] person over five and under twenty-one years of age who has not received a high school diploma is entitled to attend the public schools maintained in the district in which such person resides without the payment of tuition." Residence is based, in part, upon an individual's physical presence as an inhabitant within the district ... and upon the individual's intent to remain (Appeal of Anthony S., 32 Ed Dept Rep 93; Appeal of Bonfante-Cerutti, 31 Ed Dept Rep 38; Appeal of Reifler, 31 Ed Dept Rep 235; Appeal of Tyman, 28 Ed Dept Rep 4; Matter of Whiteman, 24 Ed Dept Rep 337). In cases challenging a student's residency, the party alleging a change in residence bears the burden of proof (Appeal of Virginia L., 32 Ed Dept Rep 132; Appeal of Gibson, 31 Ed Dept Rep 284; Appeal of Bonfante-Cerutti, 31 Ed Dept Rep 38). In no case may students residing in the district be denied admission to school based on their status as undocumented aliens (Plyer v. Doe, 457 US 202 [1982]).

Generally, a student's residence is presumed to be that of his/her parents or legal guardian (Catlin v. Sobol, 155 AD2d 24, 553 NYS2d 501, rev'd on other grounds, 77 NY2d 552, 560 NYS2d 353 [1991]; Appeal of Hilaire, 31 Ed Dept Rep 84; Appeal of Pinto, 30 Ed Dept Rep 374). However, the presumption that a child's residence is that of his parents can be rebutted by examining the totality of circumstances (Appeal of Ambris, 31 Ed Dept Rep 41). In particular, the presumption is rebutted when it is established that the child's parent(s) has
surrendered custody and control and that such control is being exercised by some other person with whom the child lives (See Catlin v. Sobol, supra).

Although a court order awarding legal guardianship may be offered to establish a transfer of parental custody and control, a court order is unnecessary to establish a residence apart from one’s parents where the child’s actual and only residence is with the person with whom the child lives (Catlin v. Sobol, supra; Appeal of Pinto, 30 Ed Dept Rep 374; Matter of Staulcup, 20 Ed Dept Rep 11; Matter of Morello, 9 Ed Dept Rep 130);

(i) Is the current living arrangement the student’s actual and only address? (Catlin v. Sobol, supra; Appeal of Pinto, 30 Ed Dept Rep 374; Matter of Staulcup, 20 Ed Dept Rep 11; Matter of Morello, 9 Ed Dept Rep 130);

(ii) Does the student intend to remain in the district? (Appeal of Tynan, 28 Ed Dept Rep 4; Matter of VanCurran, 18 Ed Dept Rep 523);

(iii) Has the parent(s) relinquished custody and control over the student to another person with whom the child lives? (Catlin v. Sobol, supra; Appeal of Garretson, 31 Ed Dept Rep 542; Appeal of Aquila, 31 Ed Dept Rep 93; Matter of Takeall, 23 Ed Dept Rep 475; Matter of Hill & Joyce, 23 Ed Dept Rep 338; Matter of Schumer, 21 Ed Dept Rep 640);

NOTE: When a parent has relinquished custody to another person with whom the child lives, the fact that the parent maintains a continuing relationship with the child is not determinative of the child’s residence (Appeal of Pinto, 30 Ed Dept Rep 374, supra; Appeal of McMullan, 29 Ed Dept Rep 310, supra).

(iv) Does the parent(s) continue to support the student? (Catlin v. Sobol, supra; Appeal of Aquila, 31 Ed Dept Rep 93; Matter of Delgado, 24 Ed Dept Rep 279; Matter of Hill & Joyce, 23 Ed Dept Rep 338; Matter of Shemidline, 22 Ed Dept Rep 206);

(v) Do the adults with whom the student is living provide for the student’s care and supervision as otherwise provided by parent(s)? (Matter of Staulcup, 20 Ed Dept Rep 11); (a copy of a model custodial affidavit is attached to this memorandum);

(vi) Is there sufficient evidence that the parents have transferred custody and control of the child to the individual with whom the child is living? Although
a district may not require a court order to establish change in guardianship, a district may require a sworn statement or affidavit from the parents acknowledging their transfer of custody and control to the child's custodian (Appeal of Pernell, 30 Ed Dept Rep 380; Matter of Bunk, 22 Ed Dept Rep 38; Matter of Tiger, 16 Ed Dept Rep 178), except where the student is an emancipated minor (Appeal of Deborah V., 29 Ed Dept Rep 176) [a copy of a model parent affidavit is attached to this memorandum]); and


In any case, the mere physical presence of a child in a school district without evidence that the parent has relinquished custody and control of a child does not overcome the presumption that the child resides with the parent or legal guardian (Caitlin v. Sobol, supra. Appeal of Claudette C., 32 Ed Dept Rep 128). Nor is one's intent to establish a residence alone sufficient to establish residence when the person claiming to be a resident never lived in that location (Appeal of Reitler, 31 Ed Dept Rep 235).

EMANCIPATED MINORS

Students beyond the compulsory school age, who are independent and living apart from their parents, who are not in need or receipt of foster care, may be considered emancipated for purposes of establishing a residence apart from their parents. By establishing emancipation, a pupil rebuts the presumption that his/her residence is with one's parent(s) (cf., Appeal of Popp, 31 Ed Dept Rep 546; Appeal of Deborah V., 29 Ed Dept Rep 176, supra; Matter of Takeall, 23 Ed Dept Rep 475). In such cases, where the applicant is living with others, whether or not the adults with whom the student lives have assumed responsibility for the student is irrelevant (Matter of Takeall, supra); and a statement from the parents of an emancipated minor describing the nature of their relationship to the child may not be required where, based upon the facts of the case, it places an unreasonable burden on the prospective student (see, Appeal of Werher & Carlson, 31 Ed Dept Rep 186; Appeal of Deborah V., supra).

In order to establish a pupil's status as an emancipated minor, a district is not precluded from requiring documentation from the student of the student's age, his or her means of support, and an explanation of the circumstances surrounding the student's emancipation, including a description of the student's relationship with his or her parents. Evidence that the student is not receiving any support from parents (except by a court order that also acknowledges the student's right to receive support as an emancipated minor) is
also relevant in making a determination regarding emancipation. In any case, proof of eligibility for public assistance as an emancipated minor should be sufficient to establish emancipation for purposes of school admission.

Because there is no formal court proceeding under New York law for establishing emancipation, a district may not require a court order as proof of emancipation. A district may, however, require an affidavit or sworn statement from the student as proof of emancipation and residence, in addition to supporting documentation of the pupil’s age, means of support and home address (e.g., a statement from the person with whom the student is living, rent receipts, pay stubs, letter from the Department of Social Services, driver’s license, etc.) (A copy of a model affidavit establishing emancipation is attached to this memorandum).

CHILDREN LIVING WITH NON-CUSTODIAL PARENTS

For children whose parents live apart, the Commissioner ruled that where a court order awards custody to one parent, the child’s residence is presumed to be that of the custodial parent (Appeal of Juracka, 31 Ed Dept Rep 282; Appeal of Forde, 29 Ed Dept Rep 359). However, the presumption is rebuttable. For example, the presumption may be rebutted upon a showing that the child is an emancipated minor, living beyond the custody or control of the custodial parent (Appeal of Forde, supra; Matter of Takeall, 23 Ed Dept Rep 475, supra), or, in the case of an unemancipated minor, the child’s residence with the non-custodial parent may be established where the custodial parent consents to the change in residence (Appeal of Barron, 31 Ed Dept Rep 1). In cases where parents have been awarded joint custody or the child’s time is equally divided between two households, the decision regarding the child’s residency lies ultimately with the family (Appeal of Juracka, supra; Appeal of Forde, supra). In such cases, either both parents together or the custodial parent may designate the child’s residence (Appeal of Barron, supra). If the child is emancipated, however, a designation by the custodial parent is unnecessary (see, Appeal of Forde, supra). In any case, where a child’s parents live apart, the child may have only one legal residence or domicile (Appeal of Barron, supra; Matter of Manning, 24 Ed Dept Rep 33).

HOMELESS CHILDREN AND RUNAWAY AND HOMELESS YOUTH

Under 8 NYCRR 100.2(x), the Commissioner’s Regulations provide that:

the parent of or person in parental relation to a homeless child, or a homeless child if no parent or person in parental relationship is available, or for runaway and homeless youth, the director of the residential program for runaway and homeless youth in consultation with the youth, may designate, on a form specified by the Commissioner, either the school district of current location or the school district of last attendance as the
district the child shall attend ... .

(8 NYCRR 100.2[x][2])

A homeless child is defined by regulation as a child who is:

entitled to attend school in the State of New York who, because of the unavailability of permanent housing, is living in a hotel, motel, shelter or other temporary living arrangement in a situation in which the child or his or her family is receiving assistance and/or services from a local social services district, ...

NOTE: The definition includes all homeless children placed by the Department of Social Services in a hotel, motel or shelter and any child housed in residential programs for victims of domestic violence. This definition does not include children placed by a court or whose custody has been transferred to an authorized agency or the Division for Youth.

(8 NYCRR 100.2[x][1][i]) (Emphasis added)

A runaway and homeless youth is defined as a child who is:

... housed in a residential program for runaway and homeless youth established pursuant to Article 19-H of the Executive Law.

(NYCRR §100.2(x)(1)(ii))

Where the parent, the person in parental relationship, the child, or for a runaway and homeless youth, the director of a residential program for runaway and homeless youth, designates the school district of current location as the district of attendance, such school district shall be eligible for reimbursement by the Education Department for the direct cost of educational services. Claims for such reimbursement must be submitted on a form prescribed by the Commissioner (Education Law §3202[8]).

**CHILDREN LACKING A PERMANENT ADDRESS**

Commissioner's regulations create procedures for designating the school district of attendance and additional State aid is available for those homeless children and runaway and homeless youth who fall within the definitions cited above and designate either the school district of current location or a district participating in a regional placement plan. However, there may be other children who, although not falling within the regulations' definition of "a homeless child" or "runaway and homeless youth," nonetheless, lack a permanent address.
Such children may not be deprived of the right to attend school. In particular, federal law requires both the State Education Department and local school districts to develop and revise policies to remove barriers to the enrollment and retention of such children and youth (Stewart H. McKinney Homeless Assistance Act, 42 USC 11431 et seq.). To ensure the right to education, school boards must be prepared to make residency determinations for such children on a case by case basis (see, Appeal of Richards, 25 Ed Dept Rep 38). The following rules, derived from case law, provide important guidelines for making such determinations:

(i) Generally, a residence is not lost until another residence is established through both intent and action expressing such intent (see, Appeal of Edward K., 32 Ed Dept Rep 112; Appeal of Reifler, 31 Ed Dept Rep 235; Appeal of Kenneth R., 32 Ed Dept Rep 41; Appeal of Tynan, 28 Ed Dept Rep 4; Appeal of Woodward, 27 Ed Dept Rep 442; Appeal of Tunstall, 27 Ed Dept Rep 144; Appeal of Aufiero, 26 Ed Dept Rep 406; Appeal of Richards, 25 Ed Dept Rep 38.

(ii) Nor does a person’s temporary absence from one’s district of residence necessarily constitute establishment of a residence in the district where temporarily located or abandonment of one’s permanent residence (Appeal of Kenneth R., 32 Ed Dept Rep 41; Appeal of Richards, 25 Ed Dept Rep 38; Matter of Hodge, 27 St Dept Rep 690);

Accordingly, students not covered in Commissioner’s regulations at 8 NYCRR 100.2(x) whose families (or emancipated minors who) lose their permanent home due to circumstances beyond their control, who are forced to make temporary arrangements outside their district of residence and whose actions reflect an intent to return to the district, do not lose their right to attend school in the district where they previously lived. To determine one’s intent, evidence regarding the family’s (or individual’s) continuing ties to the community and their efforts to return are relevant (Appeal of Kenneth R., 32 Ed Dept Rep 41, supra; Appeal of Tynan, 28 Ed Dept Rep 4, supra; Appeal of Woodward, 27 Ed Dept Rep 442, supra; Appeal of Richards, 25 Ed Dept Rep 38, supra).

(iii) Where the parents and guardians of children have no other residence and the children dwell with them within the school district, although such residence may not be accompanied by an intention to dwell there permanently, the obligation of the district to provide such children with a free education is clear and unequivocal (Vaughn v. Board of Educ. of Union Free School Dist. No. 7, Town of Hempstead, 64 Misc 2d 60 [1970]).

In any case, the lack of a permanent address does not constitute a legitimate basis for denying a student admission to school. In such cases, students are either entitled to
continue to attend school in the district where they attended before losing their permanent home (see, Richards, Tynan & Woodward, supra), or in the district where they are temporarily located (Vaughn v. BOE, supra). Since a determination of "intent" is often based on subjective rather than objective criteria, districts should give significant weight to the family's or student's designation of a school district of residence, once the district determines that the student is homeless and actually lived in the district designated immediately prior to the loss of permanent housing or is temporarily housed in the designated district. To ensure continuity of education, school districts are urged to work closely with students and families who lack a permanent address.

**PROCEDURES TO BE FOLLOWED IN RESIDENCY DETERMINATIONS**

Although the procedures for making residency determinations were promulgated in conjunction with the regulations governing school attendance for homeless children (8 NYCRR 100.2[x]), the procedures set forth at 8 NYCRR 100.2(y) apply to all residency determinations. Those regulations specifically require that only the board of education or its designee may determine whether a child is entitled to attend the schools of the district. Any adverse residency decision by a school official other than the board or its designee must include notification of the procedures for obtaining review of the decision within the district. The regulation requires that prior to making a residency determination the board or its designee afford the child's parent, or the person in parental relation or the child, as applicable, the opportunity to submit information concerning the child's right to attend school in the district. Where the board of education or its designee determines that the child is neither a resident nor entitled to attend school under 100.2(x) of the Commissioner's Regulations, written notice of its determination must be provided within two business days to the parent, the person in parental relation or to the child. Written notice must include the basis for the determination, the date of exclusion from the district, and a statement regarding the right to appeal an adverse determination to the Commissioner within 30 days, which indicates that the procedure for taking such appeal may be obtained from the Department's Office of Counsel (8 NYCRR 100.2[x]). As stated in Matter of Pryor, 29 Ed Dept Rep 505:

[I]t is the purpose of the procedure set forth in §100.2(y) of the Commissioner's Regulations to require boards of education to establish policies and procedures in residency determinations and to give parents detailed written notice of their right to appeal adverse decisions.
MODEL PARENT AFFIDAVIT

STATE OF NEW YORK  
COUNTY OF ______  

(NAME OF PARENT), being duly sworn, deposes and says:

1. I am the (RELATIONSHIP TO APPLICANT) of (NAME OF APPLICANT).

2. I reside at (ADDRESS OF PARENT).

3. (STATEMENT OF REASONS WHY THE CHILD IS NOT LIVING WITH THE PARENT[S]).

4. (STATEMENT NAMING THE INDIVIDUAL HAVING CUSTODY AND CONTROL OF THE CHILD.)

5. (STATEMENT SETTING FORTH THE CHILD'S CURRENT ADDRESS AND LIVING ARRANGEMENT.)

6. (STATEMENT EXPLAINING THE INITIAL DURATION OF THE LIVING ARRANGEMENT.) (i.e. permanent, indefinite, to be terminated on a specific date, and/or upon a certain action/event, etc.)

7. (STATEMENT DESCRIBING ANY OTHER LOCATION(S) WHERE THE CHILD LIVES. INDICATE THE LENGTH OF TIME THE CHILD IS AT THE OTHER ADDRESS AND PROVIDE AN EXPLANATION. IF THE CHILD DOES NOT LIVE AT ANY OTHER ADDRESS, SO INDICATE.)

8. (IF RELEVANT, STATEMENT CONFIRMING THAT PARENT HAS RELINQUISHED CUSTODY AND CONTROL OF THE CHILD TO THE CUSTODIAN, INCLUDING THE RIGHT TO MAKE DECISIONS PERTAINING TO THE HEALTH, WELFARE AND EDUCATION OF THE CHILD.)
9. (STATEMENT OF ANY OTHER RELEVANT FACTS)


(SIGNATURE OF CUSTODIAN)

Sworn to before me this ___ day of __________________, 199__

____________________________
NOTARY PUBLIC

*Where applicable, this form should be executed individually by each custodian, if applicable.
MODEL CUSTODIAL AFFIDAVIT

STATE OF NEW YORK )
COUNTY OF ______ )

(NAME OF CUSTODIAN), being duly sworn, deposes and says:

1. I live at (FULL ADDRESS OF CUSTODIAN).

2. (FULL NAME OF CHILD) is my (CHILD’S RELATIONSHIP TO CUSTODIAN)
   and he/she has been living with me since (RELEVANT DATE).

3. (CHILD’S NAME) intends to reside with me for (LENGTH OF TIME).

4. (STATEMENT EXPLAINING THE DURATION OF THE LIVING
   ARRANGEMENT [PERMANENT, INDEFINITE, TO BE TERMINATED UPON
   A SPECIFIC DATE, ACTION OR EVENT].)

5. (STATEMENT OF THE REASONS THE CHILD LIVES WITH THE
   CUSTODIAN.)

6. (STATEMENT DESCRIBING ANY OTHER LOCATION(S) WHERE THE
   CHILD LIVES. INDICATE THE LENGTH OF TIME THE CHILD IS AT THE
   OTHER ADDRESS AND PROVIDE AN EXPLANATION. IF THE CHILD
   DOES NOT LIVE AT ANY OTHER ADDRESS, SO INDICATE.)

7. (STATEMENT ESTABLISHING WHO PROVIDES THE CHILD WITH FOOD,
   CLOTHING AND ALL OTHER NECESSITIES.)

8. (CUSTODIAL STATEMENT ASSUMING FULL RESPONSIBILITY FOR ALL
   MATTERS RELATING TO THE CHILD’S EDUCATION AND MEDICAL,
   CARE.)
AFFIDAVIT OF EMANCIPATION

STATE OF NEW YORK )
COUNTY OF _____ )

(NAME OF STUDENT), being duly sworn, deposes and says:

1. I was born on _______ and I am over the age of sixteen (or seventeen in New York City).

2. (STATEMENT EXPLAINING THE REASONS THE APPLICANT IS NOT LIVING WITH PARENTS.)

3. I currently reside at ____________________.

4. (STATEMENT OF MEANS OF SUPPORT.)

5. (STATEMENT WHETHER THE STUDENT IS RECEIVING ANY FINANCIAL ASSISTANCE FROM PARENTS.)

6. (STATEMENT DESCRIBING THE CURRENT RELATIONSHIP OF THE APPLICANT TO THE PARENTS [e.g. when last seen, contacted, knowledge of whereabouts, etc.]).

7. (STATEMENT OF ANY OTHER FACTS RELEVANT TO ONE’S STATUS AS AN EMANCIPATED MINOR.)

__________________________
SIGNATURE OF STUDENT

Sworn to before me this ______
day of __________, 199__.

__________________________
NOTARY PUBLIC

*Depending on the nature of the relationship, a district may request an affidavit from the applicant’s parents (see Appeal of Deborah H., 29 Ed Dept Rep 176).
§ 3209. Education of homeless children.

1. Definitions.
   * a. Homeless child. For the purposes of this article, the term "homeless child" shall mean:
     (1) a child or youth who lacks a fixed, regular, and adequate nighttime residence, including a child or youth who is:
       (i) sharing the housing of other persons due to a loss of housing, economic hardship or a similar reason;
       (ii) living in motels, hotels, trailer parks or camping grounds due to the lack of alternative adequate accommodations;
       (iii) abandoned in hospitals; or
       (iv) a migratory child, as defined in subsection two of section thirteen hundred nine of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015, who qualifies as homeless under any of the provisions of clauses (i) through (iii) of this subparagraph or subparagraph two of this paragraph;
     (v) an unaccompanied youth, as defined in section seven hundred twenty-five of subtitle B of title VII of the McKinney-Vento Homeless Assistance Act; or
   (2) a child or youth who has a primary nighttime location that is:
     (i) a supervised publicly or privately operated shelter designed to provide temporary living accommodations including, but not limited to, shelters operated or approved by the state or local department of social services, and residential programs for runaway and homeless youth established pursuant to article nineteen-H of the executive law; or
     (ii) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings, including a child or youth who is living in a car, park, public space, abandoned building, substandard housing, bus or train stations or similar setting.

*Effective until June 30, 2018

** a. Homeless child. For the purposes of this article, the term "homeless child" shall mean:
   (1) a child who lacks a fixed, regular, and adequate nighttime residence, including a child or youth who is:
     (i) sharing the housing of other persons due to a loss of housing, economic hardship or a similar reason;
     (ii) living in motels, hotels, trailer parks or camping grounds due to the lack of alternative adequate accommodations;
     (iii) abandoned in hospitals;
     (iv) a migratory child, as defined in subsection two of section thirteen hundred nine of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015, who qualifies as homeless under any of the provisions of clauses (i) through (iii) of this subparagraph or subparagraph two of this paragraph; or
     (v) an unaccompanied youth, as defined in section seven hundred twenty-five of subtitle B of title VII of the McKinney-Vento Homeless Assistance Act; or
   (2) a child who has a primary nighttime location that is:
     (i) a supervised publicly or privately operated shelter designed to provide temporary living accommodations including, but not limited to, shelters operated or approved by the
state or local department of social services, and residential programs for runaway and homeless youth established pursuant to article nineteen-H of the executive law; or

(ii) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings, including a child or youth who is living in a car, park, public space, abandoned building, substandard housing, bus or train stations or similar setting.

(3) the term "homeless child" shall not include a child in foster care placement or receiving educational services pursuant to subdivision four, five, six, six-a or seven of section thirty-two hundred two of this article or pursuant to article eighty-one, eighty-five, eighty-seven or eighty-eight of this chapter.

** Effective June 30, 2018

*** a-1. Exception. For the purposes of this article the term "homeless child" shall not include a child in a foster care placement or receiving educational services pursuant to subdivision four, five, six, six-a or seven of section thirty-two hundred two of this part or pursuant to article eighty-one, eighty-five, eighty-seven or eighty-eight of this chapter.

*** Effective until June 30, 2018

b. Designator. The term "designator" shall mean:

(1) the parent or the person in parental relation to a homeless child; or

(2) the homeless child, if no parent or person in parental relation is available; or

(3) the director of a residential program for runaway and homeless youth established pursuant to article nineteen-H of the executive law, in consultation with the homeless child, where such homeless child is living in such program.

c. School district of origin. The term "school district of origin" shall mean the school district within the state of New York in which the homeless child was attending a public school or preschool on a tuition-free basis or was entitled to attend when circumstances arose which caused such child to become homeless, which is different from the school district of current location. School district of origin shall also mean the school district in the state of New York in which the child was residing when circumstances arose which caused such child to become homeless if such child was eligible to apply, register, or enroll in public preschool or kindergarten at the time such child became homeless, or the homeless child has a sibling who attends a school in the school district in which the child was residing when circumstances arose which caused such child to become homeless.

d. School district of current location. The term "school district of current location" shall mean the public school district within the state of New York in which the hotel, motel, shelter or other temporary housing arrangement of a homeless child, or the residential program for runaway and homeless youth, is located, which is different from the school district of origin.

e. Regional placement plan. The term "regional placement plan" shall mean a comprehensive regional approach to the provision of educational placements for homeless children which has been approved by the commissioner.

f. Feeder school. The term "feeder school" shall mean:

(1) a preschool whose students are entitled to attend a specified elementary school or group of elementary schools upon completion of that preschool;
(2) a school whose students are entitled to attend a specified elementary, middle, intermediate, or high school or group of specified elementary, middle, intermediate, or high schools upon completion of the terminal grade of such school; or

(3) a school that sends its students to a receiving school in a neighboring school district pursuant to section two thousand forty of this chapter.

g. Preschool. The term "preschool" shall mean a publicly funded prekindergarten program administered by the department or a local educational agency or a Head Start program administered by a local educational agency and/or services under the Individuals with Disabilities Education Act administered by a local educational agency.

h. Receiving school. The term "receiving school" shall mean:

(1) a school that enrolls students from a specified or group of preschools, elementary schools, middle schools, intermediate schools, or high schools; or

(2) a school that enrolls students from a feeder school in a neighboring local educational agency pursuant to section two thousand forty of this chapter.

i. School of origin. The term "school of origin" shall mean a public school that a child or youth attended when permanently housed, or the school in which the child or youth was last enrolled, including a preschool or a charter school. Provided that, for a homeless child or youth who completes the final grade level served by the school of origin, the term "school of origin" shall include the designated receiving school at the next grade level for all feeder schools. Where the child is eligible to attend school in the school district of origin because the child becomes homeless after such child is eligible to apply, register, or enroll in the public preschool or kindergarten or the child is living with a school-age sibling who attends school in the school district of origin, the school of origin shall include any public school or preschool in which such child would have been entitled or eligible to attend based on such child's last residence before the circumstances arose which caused such child to become homeless.

2. Choice of district and school.

a. The designator shall have the right to designate one of the following as the school district within which the homeless child shall be entitled to attend upon instruction:

(1) the school district of current location;

(2) the school district of origin; or

(3) a school district participating in a regional placement plan.

b. The designator shall also have the right to designate one of the following as the school where a homeless child seeks to attend for instruction:

(1) the school of origin; or

(2) any school that nonhomeless children and youth who live in the attendance area in which the child or youth is actually living are eligible to attend, including a preschool.

c. (1) Notwithstanding any other provision of law to the contrary, where the public school district in which a homeless child is temporarily housed is the school district of origin, the homeless child shall be entitled to attend the schools of such district without the payment of tuition in accordance with subdivision one of section thirty-two hundred two of this article for the duration of the homelessness and until the end of the school year in which such child
becomes permanently housed and for one additional year if that year constitutes the child's terminal year in such building.

(2) Notwithstanding any other provision of law to the contrary, where the school district of origin or school of origin that a homeless child was attending on a tuition-free basis or was entitled to attend when circumstances arose which caused the child to become homeless is located in New York state and the homeless child's temporary housing arrangement is located in a contiguous state, the homeless child shall be entitled to attend the school of origin or any school that nonhomeless children and youth who live in the attendance area in which the child or youth is actually living are eligible to attend, including a preschool, subject to a best interest determination pursuant to subparagraph three of paragraph f of this subdivision, for the duration of the homelessness and until the end of the school year in which such child becomes permanently housed and for one additional year if that year constitutes the child's terminal year in such building.

(3) Notwithstanding any other provision of law to the contrary, where the child's temporary housing arrangement is located in New York state, the homeless child shall be entitled to attend the school of origin or any school that nonhomeless children and youth who live in the attendance area in which the child or youth is actually living are eligible to attend, including a preschool, subject to a best interest determination pursuant to subparagraph three of paragraph f of this subdivision, for the duration of the homelessness and until the end of the school year in which such child becomes permanently housed and for one additional year if that year constitutes the child's terminal year in such building.

d. Notwithstanding the provisions of paragraph a of this subdivision, a homeless child who has designated the school district of current location as the district of attendance and who has relocated to another temporary housing arrangement outside of such district, or to a different attendance zone or community school district within such district, shall be entitled to continue to attend in the same school building or designate any school that nonhomeless children and youth who live in the attendance area in which the child or youth is actually living are eligible to attend, including a preschool, subject to a best interest determination in accordance with subparagraph three of paragraph f of this subdivision, for the duration of the homelessness and until the end of the school year in which the child becomes permanently housed and for one additional year if that year constitutes the child's terminal year in such building.

e. Such designation shall be made on forms specified by the commissioner, and shall include the name of the child, the name of the parent or person in parental relation to the child, the name and location of the temporary housing arrangement, the name of the school district of origin, the name of the school district where the child's records are located, the complete address where the family was located at the time circumstances arose which caused such child to become homeless and any other information required by the commissioner. All school districts, temporary housing facilities operated or approved by a local social services district, and residential facilities for runaway and homeless youth shall make such forms available and shall ensure that the completed designation forms are given to the local educational agency liaison for the local educational agency in which the designated school is located in a timeframe prescribed by the commissioner in regulations. Where the homeless child is located in a temporary housing facility operated or approved by a local social services district, or a residential facility for runaway and homeless youth, the director of the facility or a person
designated by the social services district, shall, within two business days, assist the designator in completing the designation forms and enrolling the homeless child in the designated school district and shall forward the completed designation form to the local educational agency liaison for the local educational agency in which the designated school is located in a timeframe prescribed by the commissioner in regulations.

f. Upon receipt of the designation form, the designated school district shall immediately:

(1) review the designation form to ensure that it has been completed;

(2) admit the homeless child even if the child or youth is unable to produce records normally a requirement for enrollment, such as previous academic records, records of immunization and/or other required health records, proof of residency or other documentation and/or even if the child has missed application or enrollment deadlines during any period of homelessness, if applicable. Provided that nothing herein shall be construed to require the immediate attendance of an enrolled student lawfully excluded from school temporarily pursuant to section nine hundred six of this chapter because of a communicable or infectious disease that imposes a significant risk of infection of others;

(3) determine whether the designation made by the designator is consistent with the best interests of the homeless child or youth. In determining a homeless child's best interest, a local educational agency shall:
   (i) presume that keeping the homeless child or youth in the school of origin is in the child's or youth's best interest, except when doing so is contrary to the request of the child's parent or guardian, or in the case of an unaccompanied youth, the youth;
   (ii) consider student-centered factors, including but not limited to factors related to the impact of mobility on achievement, education, the health and safety of the homeless child, giving priority to the request of the child's or youth's parent or guardian or the youth in the case of an unaccompanied youth;
   (iii) if after considering student-centered factors and conducting a best interest school placement determination, the local educational agency determines that it is not in the homeless child's best interest to attend the school of origin or the school designated by the designator, the local educational agency must provide a written explanation of the reasons for its determination, in a manner and form understandable to such parent, guardian, or unaccompanied youth. The information must also include information regarding the right to a timely appeal in accordance with regulations of the commissioner. The homeless child or youth must be enrolled in the school in which enrollment is sought by the designator during the pendency of all available appeals;

(4) treat the homeless child as a resident for all purposes;

(5) make a written request to the school district where the child's records are located for a copy of such records; and

(6) forward the designation form to the school district of origin where applicable.

g. Within five days of receipt of a request for records pursuant to subparagraph five of paragraph f of this subdivision, the school district shall forward, in a manner consistent with state and
federal law, a complete copy of the homeless child’s records including, but not limited to, proof of age, academic records, evaluations, immunization records, and guardianship papers, if applicable.

h. Where the school of origin is a charter school, the school district designated pursuant to this subdivision shall be deemed to be the school district of residence of such child for purposes of fiscal and programmatic responsibility under article fifty-six of this chapter and shall be responsible for transportation of the homeless child if a social services district is not otherwise responsible pursuant to subdivision four of this section.

i. The commissioner shall promulgate regulations setting forth the circumstances pursuant to which a change in designation may be made and establishing a procedure for the identification of the school district of origin.

****2-a. Notwithstanding any other provision of law to the contrary, each local educational agency, as such term is defined in subsection twenty-six of section ninety-one hundred one of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015, shall designate a local educational agency liaison for homeless children and youths and shall, consistent with the provisions of this section, otherwise comply with the applicable requirements of paragraphs three through seven of subsection (g) of section seven hundred twenty-two of subtitle B of title VII of the McKinney-Vento Assistance Act.

****Effective until June 30, 2018

3. Reimbursement.

a. Where either the school district of current location or a school district participating in a regional placement plan is designated as the district in which the homeless child shall attend upon instruction and such homeless child’s school district of origin is within New York state, the school district providing instruction, including preschool instruction, shall be eligible for reimbursement by the department, as approved by the commissioner, for the direct cost of educational services, not otherwise reimbursed under special federal programs, calculated pursuant to regulations of the commissioner for the period of time for which such services are provided. The claim for such reimbursement shall be in a form prescribed by the commissioner. The educational costs for such children shall not be otherwise aidable or reimbursable.

b. The school district of origin shall reimburse the department for its expenditure for educational services on behalf of a homeless child pursuant to paragraph a of this subdivision in an amount equal to the school district basic contribution, as such term is defined in subdivision eight of section forty-four hundred one of this chapter, pro-rated for the period of time for which such services were provided in the base year by a school district other than the school district of origin. Upon certification by the commissioner, the comptroller shall deduct from any state funds which become due to the school district of origin an amount equal to the reimbursement required to be made by such school district in accordance with this paragraph, and the amount so deducted shall not be included in the operating expense of such district for the purpose of computing the approved operating expense pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter.

4. Transportation.
a. A social services district shall provide for the transportation of each homeless child, including those in preschool and students with disabilities identified pursuant to sections forty-four hundred one and forty-four hundred two of this chapter whose individualized education programs include special transportation services, who is eligible for benefits pursuant to section three hundred fifty-j of the social services law, to and from a temporary housing location in which the child was placed by the social services district and the school attended by such child pursuant to this section, if such temporary housing facility is located outside of the designated school district pursuant to paragraph a of subdivision two of this section. A social services district shall be authorized to contract with a board of education or a board of cooperative educational services for the provision of such transportation. Where the social services district requests that the designated school district of attendance provide or arrange for transportation for a homeless child eligible for transportation pursuant to this paragraph, the designated school district of attendance shall provide or arrange for the transportation and the social services district shall fully and promptly reimburse the designated school district of attendance for the cost as determined by the designated school district. This paragraph shall apply to placements made by a social services district without regard to whether a payment is made by the district to the operator of the temporary housing facility.

b. The designated school district of attendance shall provide for the transportation of each homeless child who is living in a residential program for runaway and homeless youth established pursuant to article nineteen-H of the executive law, to and from such residential program, and the school attended by such child pursuant to this section, if such temporary housing location is located outside the designated school district. The designated district of attendance shall be authorized to contract with a board of cooperative educational services or a residential program for runaway and homeless youth for the provision of such transportation. The department shall reimburse the designated school district of attendance for the cost of transporting such child to and from the residential program and the school attended by such child to the extent funds are provided for such purpose, as determined by the director of the budget.

c. Notwithstanding any other provision of law, any homeless child not entitled to receive transportation pursuant to paragraphs a and b of this subdivision who requires transportation in order to attend a school of origin designated pursuant to subdivision two of this section, shall be entitled to receive such transportation pursuant to this paragraph. The designated school district of attendance shall provide transportation to and from the child's temporary housing location and the school of origin. Such transportation shall be in excess of fifty miles each way except where the commissioner certifies that transportation in excess of fifty miles is in the best interest of the child. Any cost incurred for such transportation that is allowable pursuant to the applicable provision of parts two and three of article seventy-three of this chapter or herein, shall be allowable pursuant to subdivision seven of section thirty-six hundred two of this chapter, provided that the approved transportation expense shall not exceed an amount determined by the commissioner to be the total cost for providing the most cost-effective mode of such transportation in a manner consistent with commissioner's regulations. The commissioner shall promulgate regulations setting forth the circumstances pursuant to which parent accompaniment for transportation may be reimbursable, including but not limited to: the age of the child; the distance of the transportation; the cost-effectiveness of the transportation; and whether the child has a handicapping condition.
d. Notwithstanding any other provision of law, where a homeless child designates the school district of current location as the district the child will attend and such child does not attend the school of origin, such school district shall provide transportation to such child on the same basis as a resident student.

e. Where the designated school district of attendance has recommended that the homeless child attend a summer educational program and the lack of transportation poses a barrier to such child’s participation in the summer educational program, the designated school district of attendance shall provide transportation.

f. The designated school district of attendance, or the social services district if such child is eligible for transportation from the social services district pursuant to paragraph a of this subdivision, shall provide or arrange for transportation to extracurricular or academic activities where:
   (1) the homeless child participates in or would like to participate in an extracurricular or academic activity, including an after-school activity, at the school;
   (2) the homeless child meets the relevant eligibility criteria for the activity; and
   (3) the lack of transportation poses a barrier to such child’s participation in the activity.

g. Where the homeless child is temporarily living in a contiguous state and has designated a school of origin located in the state of New York, the designated school district in New York state shall collaborate with the local educational agency in which such child is temporarily living to arrange for transportation in accordance with section 722(g)(1)(J)(iii)(II) of the McKinney-Vento Homeless Assistance Act.

h. Where the homeless child is temporarily living in New York state and continues to attend a school of origin located in a contiguous state, the school district of current location shall coordinate with the local educational agency where such child is attending school to arrange for transportation in accordance with section 722(g)(1)(J)(iii)(II) of the McKinney-Vento Homeless Assistance Act.

i. Transportation as described in this subdivision must be provided to the homeless child by the designated school district of attendance or the social services district for the duration of homelessness. The designated district of attendance must transport the child for the remainder of the school year in which the child becomes permanently housed and one additional year if that year constitutes the child’s terminal year in the designated school. Such transportation shall not be in excess of fifty miles each way except where the commissioner certifies that transportation in excess of fifty miles is in the best interest of the child. The designated school district of attendance shall be entitled to reimbursement from the current school district in which the child becomes permanently housed for any cost incurred for transportation for the remainder of the school year after the child becomes permanently housed and one additional year if that year constitutes the child’s terminal year in the designated school.

5. Each school district shall:

a. establish procedures, in accordance with 42 U.S.C. section 11432(g)(3)(E), for the prompt resolution of disputes regarding school selection or enrollment of a homeless child or youth,
including, but not limited to, disputes regarding transportation and/or a child's or youth's status as a homeless child or unaccompanied youth;

b. provide a written explanation, including a statement regarding the right to appeal pursuant to 42 U.S.C. section 11432(g)(3)(E)(ii), the name, post office address and telephone number of the local educational agency liaison and the form petition for commencing an appeal to the commissioner pursuant to section three hundred ten of this chapter of a final determination regarding enrollment, school selection and/or transportation, to the homeless child's or youth's parent or guardian, if the school district declines to either enroll and/or transport such child or youth to the school of origin or a school requested by the parent or guardian; and

c. shall immediately enroll the child or youth in the school in which enrollment is sought pending final resolution of the dispute over the school district's final determination of the child's or youth's homeless status, including all available appeals within the local educational agency and the commissioner pursuant to the provisions of section three hundred ten of this chapter.

6. a. By January thirty-first, nineteen hundred ninety-five, the commissioner, the commissioner of the office of temporary and disability assistance and the commissioner of the office of children and family services shall develop a plan to ensure coordination and access to education for homeless children and shall annually review such plan.

b. The commissioner shall periodically monitor local school districts to ensure their compliance with the provisions of this article, and that such districts review and revise any local regulations, policies, or practices that may act as barriers to the enrollment or attendance of homeless children in school or their receipt of comparable services as defined in Part B of Title VII of the Federal Stewart B. McKinney Act.

c. School districts shall periodically report such information to the commissioner as he or she may require to carry out the purposes of this section.

7. Public welfare officials, except as otherwise provided by law, shall furnish indigent children with suitable clothing, shoes, books, food, transportation and other necessaries to enable them to attend upon instruction as required by law. Upon demonstration of need, such necessaries shall also include transportation of indigent children for the purposes of evaluations pursuant to section forty-four hundred ten of this chapter and title II-A of article twenty-five of the public health law.

8. Information about a homeless child's or youth's living situation shall be treated as a student educational record, and shall not be deemed to be directory information, under the McKinney-Vento Homeless Assistance Act, as amended by the Every Student Succeeds Act of 2015.

9. Each homeless child to be assisted under this section shall be provided services comparable to services offered to other students in the school selected under this section, including the following: transportation services; educational services for which the child or youth meets the eligibility criteria, such as services provided under Title I of the Elementary and Secondary Education Act of 1965 or similar state or local programs; educational programs for children with disabilities; educational programs for English learners; programs in career and technical education; programs for gifted and talented students; and school nutrition programs.

10. The commissioner may promulgate regulations to carry out the purposes of this section.
Legal References

Education Law
Section 3202
Section 3813
Section 4006

Commissioner's Regulations

Part 174 - Computation of Tuition Charges (attached)

*Part 174 is printed with permission by Westlaw, part of Thomson Reuters from the website: http://government.westlaw.com/linkedslice/default.asp?SP=nyccr-1000*

Part 174 of the Regulations of the Commissioner of Education are found in - Title 8 Education Department

Regulations Regarding Appeals and other Proceedings Before the Commissioner:

Part 275 - Parties and Proceedings
Part 276 - Rules of Practice

Decisions of the Commissioner of Education

*Matter of Board of Education Putnam Valley 15, Ed. Dept. Rep., 517 (1976), Decision 9,268*


*Matter of Board of Education Yorktown, 17, Ed. Dept. Rep., 5 (1977), Decision 9,469*

*Matter of Sanfilippo, 24, Ed. Dept. 81, (1984), Decision 11,323*


*Additional Commissioner's Decisions may be found at: http://www.counsel.nysed.gov/Decisions*