

PENNSYLVANIA DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

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Penn*Link

TO: School District Superintendents
School District Special Education Directors
Charter School Chief Executive Officers
Charter School Special Education Directors
Intermediate Unit Executive Directors
Intermediate Unit Special Education Directors

FROM: Ann Hinkson-Herrmann, Director
Bureau of Special Education

SUBJECT: Out-of-State Transfers for Students with Disabilities

Recent natural weather-related disasters have resulted in the influx of evacuees who are enrolling in a new school in the commonwealth from out of state. Many of these evacuees received special education services from their public agency and may continue to be eligible to receive special education services in their new public agency. Local educational agencies (LEAs) are encouraged to refer to the regulations pertaining to the evaluation process provided in this Penn*Link. In addition, a Question and Answer (Q&A) document has been developed to provide additional guidance on this topic. Access the Q&A document on the Special Education website in the Resources section: [Out-of-State Transfers Q&A Document](#).

According to 34 CFR § 300.323(f): If a child with a disability (who had an Individualized Education Program (IEP) that was in effect in a previous public agency in another State) transfers to a new public agency in a new state, and enrolls in a new school within the same school year, the new public agency, (in consultation with the parents), must provide the child with a free and appropriate public education (including services comparable to those described in the child's IEP from the previous public agency). Those services must be provided until the new public agency conducts an evaluation pursuant to §§ 300.304 through 300.306, (if determined to be necessary by the new public agency), and develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in §§ 300.320 through 300.324. The evaluation conducted by the new public agency would be to determine if the child is a child with a disability, and to determine the educational needs of the child. Therefore, the evaluation would not be a reevaluation, but would be an initial evaluation by the new public agency which would require parental consent as indicated under 34 CFR § 300.304 (a) Notice. The public agency must provide notice to the parents of a child with a disability, in accordance with § 300.503, that describes any evaluation procedures the agency proposes to conduct.

In addition to receiving consent to conduct an evaluation, there are additional requirements for evaluations for the LEA team to consider. Refer to 34 CFR § 300.305 (a) Review of existing evaluation data which states: "As part of an initial evaluation (if appropriate) and as part of any reevaluation under this part, the IEP team, and other qualified professionals, as appropriate, must-

- (1) Review existing evaluation data on the child, including (i) Evaluations and information provided by the parents of the child; (ii) Current classroom-based, local or State assessments, and classroom-based observations; and (iii) Observations by teachers and related

services providers; and (2) On the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine - (i) (A) Whether the child is a child with a disability, as defined in § 300.8, and the educational needs of the child ..."

LEAs are encouraged to distinguish between students who are English Learners and those who are eligible for special education services when conducting any evaluation. Please refer to the document titled Guidelines for English Learners with IEPs located in the Resources section: [Guidelines for English Learners with IEPs](#).

Should you have questions regarding this information, please contact John Gombocz, Special Education Adviser, by email at jgombocz@pa.gov, or by phone at 717.772.3745.