

PENNSYLVANIA DEPARTMENT OF EDUCATION  
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

November 13, 2017

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  
Approved Private School Executive Directors  
Approved Private School Special Education Directors

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

SUBJECT: Placement Options for Special Education

The purpose of this Penn\*Link is to reaffirm the local educational agency (LEA) responsibilities to provide a free appropriate public education (FAPE) in the least restrictive environment (LRE) to students with disabilities who are *publicly placed* in licensed private academic schools as set forth in the Individuals with Disabilities Education Act (IDEA) and applicable Pennsylvania State Board of Education Regulations found at 22 Pa. Code Chapter 14.

The special education programs and services that are specified in Chapters 14 and 711 may be provided directly by the LEA, or through arrangements with another public agency or private organization. If the LEA elects to utilize another public or private agency, organization, or school to provide all, or part of the special education program on behalf of the LEA, under 22 Pa. Code §§ 14.102 and 711.2, the LEA remains responsible for provision of FAPE to the same extent as if the child was placed in a public school consistent with IDEA and Chapters 14 or 711 of Pennsylvania's Special Education Regulations.

FAPE includes not just the special education and related services that a child with a disability receives, but also includes an appropriate preschool, elementary, and secondary school education. Since private academic school licensure does not ensure that the school's program, service, or personnel meet the requirements of IDEA, Chapter 14, or Chapter 711, the LEA cannot rely on licensure alone. The minimum individual personnel qualifications required for private academic school licensure are different from, and not equivalent to, those required for public schools. Therefore, before placement, it is imperative that the LEA who chooses to place children with disabilities in private academic schools for the implementation of Individualized Education Programs (IEPs) be responsible for determining whether the private academic school will provide the special education and related services in accordance with the IEP. This includes the maintenance of pendency (at no cost to the parent), and will determine if the special education program will meet the state standards that apply to private academic schools.

To accomplish the delivery of special education services and program in the LRE, LEAs are required to ensure (1) that the placement be determined by the student's IEP team; (2) that a continuum of placement alternatives be discussed; and (3) that a student with a disability be

provided with instruction in a setting different from that of non-disabled peers ONLY when the nature or severity of the child's disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Should you have questions regarding this information, please contact John Gombocz, Special Education Adviser, by e-mail at [jgombocz@pa.gov](mailto:jgombocz@pa.gov), or by phone at 717.772.3745.