

TO: Director of Special Education and Pupil Services  
Directors of Private Approved Special Education Facilities  
Directors of Charter Schools

FROM: George P. Dowaliby, Chief  
Bureau of Special Education and Pupil Services

DATE: March 26, 2003

SUBJECT: Update #32

I hope that Update 32 finds you well and surviving the long winter! Much has happened in the state since the last update, most noticeably around budget issues. Many of you may be aware that staff in the Bureau were laid off as a result of the elimination of positions. This, combined with not being able to fill vacant positions, has resulted in the loss of six (6) positions in the Bureau. We are making every effort to continue to be responsive to your needs while completing mandated activities; as we move into the spring, decisions will likely need to be made regarding Bureau and Department priorities.

The preliminary IDEA budget figures for the next year have been released. Based on these figures, Connecticut will receive a 17% increase in funding. Please remember that this does not mean that each LEA can anticipate a 17% increase; individual calculations for each LEA need to be done. Increases are driven by a formula based on total school census and poverty factors. I will pass on additional information to you as it becomes available.

I expect activities related to reauthorization of IDEA to begin to pick up. It is anticipated that more than one bill will be proposed and that proposals will likely try to align with the recent report completed by the President's Commission on Excellence in Special Education and with No Child Left Behind.

### **TRANSITION PLANNING – STUDIES COMPLETED**

As part of the Bureau's Continuous Improvement Plan (CIP), two studies were recently conducted in collaboration with the University of Connecticut's Center for Excellence.

The two studies include:

- Follow-up Study of Exiters of Special Education from the Year 2000
- Statewide Transition Program Status Survey of Secondary Programs

The data generated from these studies will serve as a baseline to compare future post-school outcomes of special education students and to determine an increase in the provision of transition programs and services at the high school level.

Included in the Update is the Executive summary for both studies. The complete survey results can be found on the Department of Education's website: [www.state.ct.us/sde](http://www.state.ct.us/sde), under "Special Education".

Please contact Karen Halliday at (860) 807-2020 or [karen.halliday@po.state.ct.us](mailto:karen.halliday@po.state.ct.us) if you have any further questions.

### **SUMMARIZATION OF PPT**

In response to a variety of State and Federal initiatives, and in an effort to support student achievement, many school districts in Connecticut are providing an array of after school, weekend and summer school academic learning opportunities for students. These learning opportunities are being designed for and made available to a broad range of students with and without disabilities. In light of these increased educational opportunities, districts need to more clearly distinguish between general educational opportunities and those that would be "extended school year" (ESY) services that some students with disabilities, as part of their individualized education program (IEP), may be eligible to receive.

It has come to the attention of the Bureau that there are times when parents leave a planning and placement team (PPT) meeting with the understanding that a summer school program or other educational opportunity, discussed at the PPT meeting and recommended for their child, qualifies as extended school year services. School district personnel may have described and recommended an educational opportunity that is an educational opportunity available for all students and not part of the IPE as extended school year services. In order to avoid any confusion, an appropriate PPT member should take the lead and summarize the recommendations for services and the nature of those services. This should also be clearly indicated on the student's IEP.

The District's PPT needs to clearly articulate when a recommendation for an after school, weekend or summer school program or service is part of the child's IEP as part of ESY services, or if appropriate, as part of a more general educational experience available to a wide range of students. You should not assume that PPT participants, including parents, automatically understand the distinction.

### **DIRECTORY OF APPROVED PRIVATE SPECIAL EDUCATION PROGRAMS**

An updated directory of the private special education programs which have been approved by the Department is available on-line.

*To view the directory in Microsoft Word format, go to:*  
<http://www.state.ct.us/sde/deps/special/PrivSpedProg03.doc>

*To view the directory in Adobe PDF format, go to:*

<http://www.state.ct.us/sde/deps/special/PrivSpedProg03.pdf>

Please contact Art Carey at (860) 807-2032 or via e-mail at [art.carey@po.state.ct.us](mailto:art.carey@po.state.ct.us), if you have any questions or concerns regarding private special education programs.

### **MCKINNEY-VENTO HOMELESS ASSISTANCE ACT**

The Bureau has taken the position that the provisions of the McKinney-Vento Homeless Assistance Act are not applicable to situations in which the Department of Children and Families (DCF) has placed a child in foster care, regardless of the anticipated duration of the foster care placement. Education services for such children must be provided in accordance with the Connecticut General Statutes provisions which delineate responsibility for services for children placed out-of-home by a public agency.

Please contact Art Carey at (860) 807-2032 if you have any questions regarding education services for DCF-placed children.

### **PPT PROCESS TIMELINES**

A number of questions are directed to the Bureau each year concerning mandated timelines for special education evaluation and placement. Local educational agencies must adhere to both state and federal mandates, as state regulations may introduce more specific and stringent requirements – most notably, in Connecticut, with regard to the 45 day timeline for initial referral.

Two points that are the subject of frequent questions deserve particular attention:

1. The 45 (or 60 for out of district or private placement) day timeline from initial referral to IEP implementation begins when a signed Referral for Special Education Evaluation Form – or the equivalent – is received from the parent, or when this form is signed and dated by a school administrator. The “clock” continues during the time for the initial PPT meeting to be convened (optimally, in just five days), and is “paused” only for the time required to obtain parental consent.
2. Since the 45 (or 60) day timeline refers to school days, federal requirements may be the more applicable when a student is referred late in the school year. IDEA regulations only state that the period of time to conduct an evaluation must be reasonable. While the commentary accompanying IDEA regulations note that 60 calendar days seems reasonable, there is no clear indication of what would be unreasonable.

The following represent some key timeline-related mandates under federal special education regulations (IDEA) and Connecticut regulations (10-76d).

### **Federal Requirements:**

- The Individuals with Disabilities Education Act (IDEA) requires that a child be evaluated within a reasonable time after district's receipt of parental consent to initial evaluation. [Sec. 300.343(b)(1)] *The commentary supplementing the IDEA regulations suggests that 60 calendar days is a reasonable period of time.*
- IDEA requires that the district convene a meeting to develop an IEP within thirty calendar days of determining that child is eligible for special education and related services. [Sec. 300.343(b)(2)]. Note that this will require a district to convene a Planning and Placement Team meeting in a timely manner when a student is identified as eligible for special education towards *the end of a school year.*
- IDEA requires that "an IEP is implemented as soon as possible" following team meetings for developing, reviewing, and revising the IEP. [Sec. 300.342(a)(1)].
- IDEA requires that an IEP be in effect for each eligible child at the beginning of the school year [Sec. 300.342(a)].

### **Connecticut Requirements:**

- CT regulations require that the planning and placement team develop or revise the IEP for each child requiring special education prior to the beginning of the school year [Sec. 10-76d-11(a)].
- CT regulations require that the major components of the IPE be implemented within (45) school days of the date of referral for special education, exclusive of time required to obtain parental consent [Sec. 10-76d-13(1)].
- If the IEP requires an out-of-district or private placement, CT regulations require that the major components of the IEP be implemented within 60 school days of the date of referral for special education, exclusive of time required to obtain parental consent. [Sec.10-76d-13(2)].

### **WHEN DO SCHOOL SERVICES END?**

The Connecticut statutes define the fiscal and school year as commencing July 1 and ending June 30 (Section 10-259). In Connecticut, regulations state that students with disabilities who require special education are eligible to receive special education and related services until receipt of a high school diploma or "until the end of the school year in the event that the child turns 21 during that school year" (10-76d-1(a)(7), whichever occurs first. For example, a student with disabilities eligible for special education and without a high school diploma who turns 21 between July 1, 2003 and June 30, 2004 is eligible to receive services, as recommended by the PPT and stated in the IEP, through June 30, 2004. If a student turns 21 prior to July 1, 2003, eligibility for services would end June 30, 2003.

NEW CHOICE DOCUMENT

Enclosed please find the document entitled Students with Disabilities and Parental Choice in Connecticut, which describes the responsibilities of local educational agencies (LEAs) and choice programs for students with disabilities enrolled in these programs in Connecticut. I trust that this information will assist you as you plan with families and choice program personnel for students with disabilities. For more information, please contact Dr. Nancy M. Cappello at (860) 807-2035 or by email at [nancy.cappello@po.state.ct.us](mailto:nancy.cappello@po.state.ct.us).

#### SCHOOL BASED CHILD HEALTH – FERPA and HIPAA

For districts involved in billing Medicaid through the School Based Child Health Services (SBCHS), the Bureau, along with DSS and DAS, has been involved with considerable discussion and review of the privacy requirements of the Health Insurance Portability and Accounting Act (HIPAA). While districts are considered covered entities, they are exempt from HIPAA privacy rules since educational records are covered by FERPA (See enclosed memo).

To summarize, education records maintained by school districts billing Medicaid through the SBCHA program are subject to FERPA regulations and, therefore, are not subject to HIPAA Privacy Regulations. In light of this exemption, it is especially important that districts in their SBCHS practices (a) make certain that they are in full compliance with FERPA, IDEA and CGS Sec. 10-76 regulations related to personally identifiable student information (including SBCHS specific records) and (b) adhere to all SBCHS specific policies and procedures.

Please note that the above determination applies specifically to billing Medicaid through SBCHS. Your district may be involved in other health related activities that may require compliance with HIPAA privacy rules and you may wish to review this matter with your district legal staff. For additional information regarding HIPAA application to health activities other than those directly related to billing Medicaid under SBCHS, you may contact Cheryl Carotenuti at (860) 713-6584.

GPD:mv

#### Enclosures

cc: Theodore S. Sergi, Commissioner of Education  
George A. Coleman, Associate Commissioner of Education  
Edward Preneta, Council of Developmental Disabilities  
James Granfield, Special Education Advisory Council  
Nancy Prescott CT Advocacy Center  
Superintendents of Schools  
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