



NORTH CAROLINA
State Board of Education
Department of Public Instruction

Report to the North Carolina General Assembly

Study for Students with Extraordinary
Costs

SL 2023-134, sec. 7.49

Date Due: January 15, 2024
DPI Chronological Schedule, 2023-2024

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LEGISLATIVE REQUIREMENT

STUDY FOR STUDENTS WITH EXTRAORDINARY COSTS

SECTION 7.49. As used in this section, "Approved School" means a private school with approved nonpublic education programs providing special education for students with intensive needs. The Department of Public Instruction shall study the following and report any legislative recommendations based on the outcomes of the study to the House Appropriations Committee on Education, the Senate Appropriations Committee on Education/Higher Education, and the Joint Legislative Education Oversight Committee by January 15, 2024:

(1) A method of improving options for children with disabilities with intensive needs which require private placement in an Approved School consistent with the student's individualized education program (IEP).

(2) A method of determining that placement in an Approved School is the means that most appropriately suits the child's individual needs.

(3) Extraordinary costs incurred by the public school unit by student placement in Approved Schools.

(4) Methods of creating a network of Approved Schools into which a child with disabilities with intensive needs may be placed consistent with the student's IEP.

(5) A method of prioritizing dispersal of funds to public school units to assist with the cost associated with enrolling in an Approved School in early grades to incentivize public school units to enroll students in the Approved Schools at the earliest appropriate age.

(6) Recommendations on the proportion of a student's extraordinary cost to be paid from local, State, and federal sources, respectively, and to identify existing funds at each level that may be available for the purposes studied pursuant to this section.

(7) A method to monitor overidentification of children with disabilities with intensive needs.

(8) Methods to allow for Medicaid reimbursement for additional services, such as transportation, and expanding the eligible age range to receive reimbursement for services.

(9) An estimated range of costs associated with implementing the studied methods.

(10) The advisability of one or more pilot programs with one or more Approved Schools.

METHOD OF IMPROVING OPTION CONSISTENT WITH IEP

This variable requires a method of improving options for children with disabilities with intensive needs which require private placement in an Approved School consistent with the student's individualized education program (IEP).

Currently, the individualized education program (IEP) team must consider the least restrictive environment necessary to meet the student's unique needs resulting from the student's disability under the Individuals with Disabilities Education Act (IDEA).

"Approved School" by definition is a private school with an approved nonpublic education program providing special education for students with intensive needs. The Office of Exceptional Children (OEC) currently has a mechanism in place to approve non-public schools who voluntarily seek to have its exceptional children program approved to provide services to students with disabilities. The process has been in place for over ten years. Non-public schools with approved programs for exceptional children are added to a directory maintained on the OEC website. Over time, non-public schools seeking approval has decreased.

Four non-public schools are currently listed in the directory and are located in Buncombe, Craven, Durham, and Mecklenburg counties.

Given House Bill 259 became law on October 3, 2023, the narrative provided represents the current information available for beginning the study.

METHOD OF DETERMINING PLACEMENT

This variable requires a method of determining that placement in an Approved School is the means that most appropriately suits the child's individual needs.

This variable appears to be substantially similar to the first variable in the study as the IEP Team is the only team according to the IDEA and its federal regulations with the authority to place students with disabilities according to individualized needs.

Given House Bill 259 became law on October 3, 2023, the narrative provided represents the current information available for beginning the study.

EXTRAORDINARY COSTS INCURRED BY PUBLIC SCHOOL UNIT

More time is needed to gather current data for this variable.

Given House Bill 259 became law on October 3, 2023, the narrative provided represents the current information available for beginning the study.

METHODS OF CREATING A NETWORK OF APPROVED SCHOOLS

“Approved School” by definition is a private school with an approved nonpublic education program providing special education for students with intensive needs. The Office of Exceptional Children (OEC) currently has a mechanism in place to approve non-public schools who voluntarily seek to have its exceptional children program approved to provide services to students with disabilities. The last revision to the process has been in place for approximately ten years. Non-public schools with approved programs for exceptional children are added to a directory maintained on the OEC website. Over time, non-public schools seeking approval has decreased.

Four non-public schools are currently listed in the directory and are located in Buncombe, Craven, Durham, and Mecklenburg counties.

The current process for [Non-Public Schools Exceptional Children Program Approval Process](#) is posted on the OEC website.

An anticipated barrier is the voluntary nature of non-public schools engaging in this process and is a variable to be considered during the course of the study.

Given House Bill 259 became law on October 3, 2023, the narrative provided represents the current information available for beginning the study.

METHOD OF PRIORITIZING DISPERSAL OF FUNDS

This variable requires a method of prioritizing dispersal of funds to public school units to assist with the cost associated with enrolling in an Approved School in early grades to incentivize public school units to enroll students in the Approved Schools at the earliest appropriate age.

Incentivizing placement in Approved Schools at the earliest appropriate age is a study variable that will require careful consideration as the IDEA federal regulations mandate that services be provided in the least restrictive environment.

300.114 LRE requirements.

(a) **General.**

(1) Except as provided in [§ 300.324\(d\)\(2\)](#) (regarding children with disabilities in adult prisons), the State must have in effect policies and procedures to ensure that public agencies in the State meet the LRE requirements of this section and [§§ 300.115](#) through [300.120](#).

(2) Each public agency must ensure that—

- (i) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and
- (ii) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(b) **Additional requirement—State funding mechanism —**

(1) **General.**

(i) A State funding mechanism must not result in placements that violate the requirements of [paragraph \(a\)](#) of this section; and

(ii) A State must not use a funding mechanism by which the State distributes funds on the basis of the type of setting in which a child is served that will result in the failure to provide a child with a disability FAPE according to the unique needs of the child, as described in the child's IEP.

(2) **Assurance.** If the State does not have policies and procedures to ensure compliance with [paragraph \(b\)\(1\)](#) of this section, the State must provide the Secretary an assurance that the State will revise the funding mechanism as soon as feasible to ensure that the mechanism does not result in placements that violate that paragraph.

(Approved by the Office of Management and Budget under control number 1820–0030)

(Authority: [20 U.S.C. 1412\(a\)\(5\)](#))

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RECOMMENDATIONS ON PROPORTION OF COSTS

More time is needed to gather current data for this variable.

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METHOD OF MONITORING OVERIDENTIFICATION

This variable requires a method to monitor overidentification of children with disabilities with intensive needs. The IDEA federal regulations already establish the requirement to monitor the placement of students with disabilities. This information is also reported annually in the State Performance Plan and Annual Performance Report (SPP/APR).

§ 300.120 Monitoring activities.

(a) The SEA must carry out activities to ensure that [§ 300.114](#) is implemented by each public agency.

(b) If there is evidence that a public agency makes placements that are inconsistent with [§ 300.114](#), the SEA must—

- (1) Review the public agency's justification for its actions; and
- (2) Assist in planning and implementing any necessary corrective action.

(Approved by the Office of Management and Budget under control number 1820–0030)

(Authority: [20 U.S.C. 1412\(a\)\(5\)](#))

Given House Bill 259 became law on October 3, 2023, the narrative provided represents the current information available for beginning the study.

METHODS TO ALLOW FOR MEDICAID REIMBURSEMENT

More time is needed to gather current data for this variable.

Given House Bill 259 became law on October 3, 2023, the narrative provided represents the current information available for beginning the study.

ESTIMATED COSTS TO IMPLEMENT STUDY METHODS

More time is needed to gather current data for this variable.

Given House Bill 259 became law on October 3, 2023, the narrative provided represents the current information available for beginning the study.

ADVISABILITY OF PILOT PROGRAMS

More time is needed to gather current data for this variable.

Given House Bill 259 became law on October 3, 2023, the narrative provided represents the current information available for beginning the study.

STUDY AND REPORTING TIMELINE

It is recommended that the study be initiated fully beginning January/February 2024 with an updated report presented to the North Carolina State Board of Education at its October 2024 meeting for discussion and decision in November/December 2024. The approved report would then be submitted to the North Carolina General Assembly JLEOC by January 15, 2025.